Helping Those Who Serve: Veterans Treatment Courts Foster Rehabilitation and Reduce Recidivism for Offending Combat Veterans

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ABSTRACT

“Wars [are] the most intense and destructive of human enterprises [that] traumatize and damage minds and bodies . . . .”¹ Many combat veterans return home from Operation Enduring Freedom and Operation Iraqi Freedom suffering from post-traumatic stress disorder, traumatic brain injuries, mental disease, or mental disorders—juries that they sustained during their deployments. Returning veterans are finding themselves in trouble with the criminal justice system because the injuries that they suffered while on deployment have been linked to substance abuse, domestic violence and other criminal activity. A new type of specialty court, the veterans treatment court, works with the Department of Veterans Affairs and local authorities in a collaborative “team” effort to rehabilitate these veterans and reduce their risk of recidivism by treating the underlying causes of their criminal behavior. So far, the outcomes have been positive and veterans are getting the help they need to get their lives back on track.

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INTRODUCTION

Military veterans returning home from deployment are finding themselves in trouble with the criminal justice system. Veterans treatment courts are a new type of specialty court that started surfacing in the United States at the beginning of 2008. These courts focus on providing rehabilitative treatment to combat veterans who suffer from brain injuries, mental disease, or mental disorders, such as post-traumatic stress disorder (“PTSD”), which result from military service in either a combat zone or a hazardous duty zone. Exposure to such environments increases the risk of traumatic brain injuries (“TBIs”) and PTSD. Statistics

4 A combat veteran is one who has “served on active duty in a theater of combat operations.” U.S. DEPT OF VETERANS AFFAIRS, VA HEALTH CARE FACT SHEET 16-4: COMBAT VETERAN ELIGIBILITY 1 (2010) [hereinafter VA FACT SHEET], available at http://www4.va.gov/healtheligibility/Library/pubs/CombatVet/CombatVet.pdf. Veterans who have not served on active duty in a combat operation are considered noncombat veterans. See id. This distinction is important because this Note discusses Post-Traumatic Stress Disorder only as it pertains to combat veterans in relation to their combat service. While all veterans who have been discharged from the service “under [other-than-dishonorable] conditions” are eligible for health benefits under the National Defense Authorization Act of 2008, 38 U.S.C. § 1710(e)(3) (Supp. 2008), only combat veterans are eligible to take part in veterans treatment court proceedings. See Christopher Hawthorne, Bringing Baghdad into the Courtroom: Should Combat Trauma in Veterans Be Part of the Criminal Justice Equation?, CRIM. JUST., Summer 2009, at 4, 9-10, 13 (explaining that veterans served by veterans treatment courts are those who served in Vietnam, Desert Storm, Iraq, and Afghanistan). When the term “veteran” is used in this Note it refers to combat veterans only, unless otherwise specified.
5 See Adam Caine, Comment, Fallen from Grace: Why Treatment Should Be Considered for Convicted Combat Veterans Suffering from Post Traumatic Stress Disorder, 78 UMKC L. REV. 215, 233 (2009) (explaining that Judge Russell repeatedly saw convicted veterans suffering from PTSD in Buffalo’s drug and mental health courts, which prompted him to establish a veterans treatment court); see also Chris Roberts, Law Keeps Veterans with Post-Traumatic Stress Disorder Out of Jail, EL PASO TIMES (Texas), Aug. 30, 2009, at 1B, available at 2009 WLNR 16908635 (“The court [is] geared to active-duty soldiers or veterans who served in combat zones or other hazardous assignments and suffer from post-traumatic stress disorder . . . .”).
6 One in Five Iraq and Afghanistan Veterans Suffer from PTSD or Major Depression, RAND CORP. (Apr. 17, 2008) [hereinafter RAND News Release], http://www.rand.org/news/press/2008/04/17/. A traumatic brain injury (“TBI”) is a mental defect generally caused by improvised explosive devices (“IEDs”) used by insurgent forces. See, e.g., Susan Okie, Traumatic Brain Injury in the War Zone, 352 NEW ENG. J. MED. 2043, 2046 (2005) (describing a brain bruise suffered by a soldier who encountered an IED in Iraq). A TBI can cause “a number of deficits in intellectual and adaptive functioning such as agnosia (failure to recognize or identify objects) and disturbances in executive functioning connected with
from 2008 show that nearly twenty percent of veterans returning home suffer from brain injuries, and veterans who have been on multiple combat tours have a higher risk of PTSD (twenty-five percent) than those who served only one tour (twelve percent). PTSD and other mental diseases have been linked to substance abuse—as a means of self-medication—domestic violence, and other criminal activity.

Veterans treatment courts are modeled after specialty courts such as drug courts and juvenile courts. They work with local authorities to provide offending veterans with treatment for the underlying causes of their criminal behavior, as opposed to convicting and sentencing the veterans to jail time. Veterans treatment courts are directed at rehabilitating veterans and reducing recidivism via properly tailored counseling, drug and alcohol programs, and job placement programs that contemplate the veterans’ specific physical and emotional needs. For those veterans who succeed in the program, their criminal charges are dropped; however, for those who fail, their jail sentences are imposed.

The first veterans treatment court was established in Buffalo, New York by Buffalo City Judge Robert T. Russell, Jr. in January of 2008. Since that time, other veterans treatment courts that have been established include Chicago, Illinois; Tulsa, Oklahoma; and Orange County, planning, organizing, sequencing, and abstracting.” See AM. PSYCHOLOGICAL ASS’N, REPORT OF THE TASK FORCE ON MENTAL DISABILITY AND THE DEATH PENALTY 2 (2006), available at http://www.apa.org/pubs/info/reports/mental-disability-and-death-penalty.pdf (comparing the symptoms experienced by a person with a serious brain injury to those endured by people suffering from dementia as a result of aging). One study estimates that approximately 320,000 veterans have suffered some varying degree of a TBI during their deployments to Iraq and Afghanistan. See RAND News Release, supra.


See infra Part II.B.

They work with federal and state authorities, including but not limited to, the United States Department of Veterans Affairs, local VA organizations, local police agencies, and mental health experts. See Libby Lewis, Court Aims to Help Vets with Legal Troubles, NPR (Apr. 29, 2008), http://www.npr.org/templates/story/story.php?storyId=90016059.

See Ruggeri, supra note 8; infra Part III.A.

See Ruggeri, supra note 8 (“[The court is tailored to veterans’ specific needs and can better take into account their physical and emotional condition.”); infra Part III.A.

The procedure for veterans treatment courts as well as the consequences of completion or failure of the treatment programs are discussed infra Part III.

See Zremski, supra note 3.
California. These courts generally exercise jurisdiction over nonviolent offenses, but some courts, such as the Buffalo Veterans Treatment Court, accept violent offenses as well. This Note argues that, while veterans treatment courts can capitalize on the collaborative approaches of other specialty courts, they should implement certain changes to make this specific type of specialty court better suited for veterans. Part I of this Note discusses PTSD, its symptoms, and how it can lead to criminal behavior. Part II provides an overview of specialty courts, specifically drug courts and juvenile courts, explaining how they work and what benefits offenders receive from successfully completing the treatment programs. Part III introduces the concept of veterans treatment courts and discuss how the courts work with local, state, and federal authorities to help treat the underlying illnesses or disorders that veterans suffer from.

Part IV of this Note argues that veterans treatment courts can expand the “team” approach of other specialty courts by (1) involving veterans’ families in every stage of the rehabilitation process; (2) implementing mentor-training programs to educate mentors on court procedures and various rehabilitation programs; and (3) implementing preventative screening and treatment procedures for veterans returning from deployment to ensure that they receive appropriate psychological screening and treatment, which can help prevent criminal offenses from occurring. Finally, this Note argues that veterans treatment courts should consider extending eligibility to violent veteran offenders whose criminal behavior is a consequence of their combat-related PTSD, TBI, or other mental disease because, arguably, these veterans are the ones most in need of rehabilitation.

I. Post-Traumatic Stress Disorder

PTSD is a mental and emotional disorder that is brought on by exposure to a psychologically distressing event that exceeds the scope of ordinary human experience. Though PTSD is now associated with all types of traumatic events, it was first recognized as a byproduct of war.
and referred to as “shell shock,” “war neurosis,” or “combat fatigue.” The actual term, “post-traumatic stress disorder” was not used until 1980 when it was formally recognized as a mental disorder by the American Psychiatric Association (“APA”).

A. Diagnosing PTSD

Though psychological trauma plagued combat veterans of every war in which the United States was involved, prior to the end of the Vietnam War such mental disorders were not formally recognized as PTSD. It was not until after Vietnam that studies were undertaken to determine the impact of the war on combat veterans. Studies showed that Vietnam veterans suffered from “mental health issues, homelessness, and substance abuse,” among other things. Five years after the end of the Vietnam War, the APA formally recognized PTSD in its Diagnostic and Statistical Manual of Mental Disorders: DSM-III.

Exposure to a life-threatening event can lead one to experience “nightmares, flashbacks, insomnia, feelings of detachment or emotional numbness, and a range of other reactions—both physical and emotional—that may interfere with [a person’s] ability to function as before.” These are normal reactions to witnessing a traumatic event; however, they are not necessarily PTSD. PTSD is a medically diagnosed disorder that is characterized by the symptoms of re-experience, avoidance, and hypervigilance. Re-experience occurs when vivid memories of sights,
sounds, smells, and the like, coupled with painful emotions, lead the person to believe that he is actually re-living the traumatic event. Avoidance means that the person consciously avoids people, places, or things that may remind him of the traumatic event. He may also shut himself off from close personal relationships with family, friends, and colleagues, and may also suffer from depression or survivor’s guilt. Hypervigilance means that the person is on “high alert” at all times and is easily startled.

B. PTSD and Criminal Behavior

Veterans who suffer from PTSD may face criminal charges because the symptoms that they suffer from can consequently lead them to commit criminal offenses. This is so because PTSD causes veterans to become chronically anxious, plagued by the traumatic events that they experienced during their combat tours. Heightened anxiety in these veterans can have two possible outcomes: (1) either veterans will look to drugs and alcohol for self-medication; or (2) they will engage in sensation-stimulating conduct to compensate for the numbness that they feel. As a consequence of PTSD, veterans may suffer from alcohol or substance abuse, homelessness, strained relationships, unemployment, and mental

25 WEBSTER, supra note 20, at 6.
26 VA WAR ZONE GUIDE, supra note 28, at 11.
27 WEBSTER, supra note 20, at 6.
28 VA WAR ZONE GUIDE, supra note 28, at 11; see Brian Brueggemann, Program May Get Federal Cash, BELLEVILLE NEWS-DEMOCRAT (Illinois), Nov. 12, 2009, at A1 (“[C]ombat veterans spend their tours of duty on edge and on high alert for gunfire, explosions[,] and other dangers—life-altering experiences that can only be understood by other military members . . . [They’re] wound tight, 24/7.” (quoting Circuit Judge Charles Romani, Jr., the head of the Madison County veterans court)).
30 See id.
31 See id.
33 Background & Statistics, NAT’L COAL. FOR HOMELESS VETERANS, http://www nchv org/background cfm (last visited Apr. 8, 2011). Veterans account for nearly 33% of the adult homeless population in the United States, and on any given night over 107,000 veterans are homeless. Id. The National Coalition for Homeless Veterans explains that a great number of veterans are homeless for many reasons, including an “extreme shortage of affordable housing, livable income[,] and access to healthcare.” Id. Additionally, most of these veterans
health issues.\textsuperscript{40}

\section*{C. PTSD and the War on Terror}

Since the beginning of the War on Terror following the September 11, 2001 terrorist attacks on the United States, more than 1.5 million men and women have served in U.S. military combat operations, including Operation Enduring Freedom and Operation Iraqi Freedom ("OEF/OIF").\textsuperscript{41} While the War on Terror shares some similarities with the Vietnam War,\textsuperscript{42} OEF/OIF has its own set of factors that make it distinguishable from previous wars fought by the United States:

First, troops are subject to longer and longer deployments to the war zone, which means that more veterans will be exposed to intense combat situations, and consequently, experience more acute stress reactions. Second, because of recent medical advances in the treatment of traumatic injury, veterans can now be expected to survive TBI and other wounds. Therefore, more of them come home, badly damaged in body and spirit.\textsuperscript{43}

\footnotetext{30}{DEPT OF DEF. TASK FORCE ON MENTAL HEALTH, AN ACHIEVABLE VISION: REPORT OF THE DEPARTMENT OF DEFENSE TASK FORCE ON MENTAL HEALTH 36 (2007), available at \url{http://www.health.mil/dhb/mhtf/MHTF-Report-Final.pdf}. With the steady increase of military operations around the globe, military service members are deployed and away from their families for months at a time, sometimes for as long as three years. \textit{Id.} Time and distance take a toll on personal relationships, and an estimated 20\% of service members returning from Operation Enduring Freedom and Operation Iraqi Freedom ("OEF/OIF") in 2006 were on their way to legal separation or divorce. See \textit{id}.}

\footnotetext{39}{See \textit{Economic News Release, Table A-5: Employment Status of the Civilian Population 18 Years and Over by Veterans Status, Period of Service, and Sex, Not Seasonally Adjusted}, BUREAU OF LABOR STATISTICS, \url{http://www.bls.gov/news.release/empsit.t05.htm} (last modified Sept. 3, 2010). Approximately 9\% of the unemployed population is made up of veterans, the greatest percentage of which (nearly 10\%) served during World War II, Korea, and Vietnam. See \textit{id}.}

\footnotetext{40}{See \textit{VA WAR ZONE GUIDE, supra} note 28, at 11. The Department of Veterans Affairs has estimated that as compared to 7\% of the civilian population that suffer from PTSD in the United States, between 11\% and 20\% of the veterans serving in OEF/OIF developed PTSD during the first years of the conflicts. \textit{Id}.}


\footnotetext{42}{See Hawthorne, \textit{supra} note 4, at 9. For example, both Vietnam and OEF/OIF troops fought counterinsurgent forces where the enemy was embedded in the civilian population, and enemy forces' weapons of choice were IEDs. \textit{Id}.}

\footnotetext{43}{\textit{Id}. at 6.
OEF/OIF deployments (both multiple in number and longer in length than deployments during previous wars) affect OEF/OIF veterans because they are exposed to more frequent and longer periods of combat; this, in turn, puts them at a greater risk of suffering from PTSD than veterans of previous wars.44 OEF/OIF veterans who suffer TBIs during combat and survive return from deployment and must live with a debilitating condition.45 Therefore, mental disease and brain injuries are more common in OEF/OIF veterans than in veterans from previous wars, which means that there can be a correlating increase in consequential criminal behavior engaged in by these veterans.46 Offending OEF/OIF veterans need help to treat the underlying causes of their criminal behavior, and veterans treatment courts are a step in the right direction.47

II. Specialty Courts

A. Drug Courts

The first type of specialty court in the United States was the Drug Court of Dade County, Florida ("Miami Court"), created in 1989 to reduce crime by treating the underlying cause of offenders’ criminal behavior.48 The Miami Court allowed the judge to monitor offenders’ drug treatment programs in order to end their drug use and consequently reduce drug-related crime.49 This type of specialty court is characterized by abandoning the adjudicative model of the criminal justice system and adopting a collaborative “team” approach whereby the judge, prosecutor, defense counsel, case manager, and treatment professionals work together toward the goal of treating and rehabilitating the offenders.50

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44 See supra text accompanying note 8 (discussing the increased risk of PTSD among veterans who serve multiple combat tours as compared to those who serve one tour); see also supra Part I A-B (explaining the symptoms of PTSD, how veterans suffer from heightened anxiety as a consequence of PTSD, and how this can lead to criminal behavior).
45 See supra note 4, at 6.
46 See supra Part I B (explaining that veterans engage in criminal behavior either as a means of self-medicating or to engage in sensation-stimulating behavior to compensate for the state of numbness in which combat has left them).
47 See infra Part IV.
50 See Tamar M. Meekins, Risky Business: Criminal Specialty Courts and the Ethical Obligations of the Zealous Criminal Defender, 12 BERKELEY J. CRIM. L. 75, 91 (2007); see also Bureau of Justice
Screening to determine eligibility for participation in a drug court is usually undertaken by criminal justice officials, pretrial service officials, probation officials, or Treatment Alternatives for Safe Communities officials (“TASC”). Eligibility for participation in a drug court is limited to nonviolent offenders, and the types of crimes accepted in drug court vary according to different drug court models; for example, Adult Criminal Drug Courts accept only drug and drug-driven offenses. Drug courts operate on the principles of treatment and accountability. Eligible offenders are taken before the drug court immediately upon arrest or apprehension and enrolled in a rehabilitative treatment program (i.e., Alcoholics Anonymous, Narcotics Anonymous, etc.). Enrolled offenders must participate in the treatment program for a minimum of one year, regularly appear in court to apprise the judge of their progress, and submit to regular and random drug testing. If an offender successfully completes

ASSISTANCE, U.S. DEPT OF JUSTICE, DEFINING DRUG COURTS: THE KEY COMPONENTS 3 (2004) [hereinafter KEY COMPONENTS], available at http://www.ojp.usdoj.gov/BJA/grant/DrugCourts/DefiningDC.pdf (“Once a defendant is accepted into the drug court program, the team’s focus is on the participant’s recovery and law-abiding behavior—not on the merits of the pending case.”). The drug court “team” includes “judges, prosecutors, defense counsel, probation authorities, other corrections personnel, law enforcement, pretrial services agencies, TASC [Treatment Alternatives for Safe Communities] programs, evaluators, an array of local service providers, and the greater community.” Id. at 1.

51 KEY COMPONENTS, supra note 50, at 5. TASC is a non-profit organization that provides rehabilitative services to individuals who suffer from substance abuse or mental-health disorders. About TASC, Inc., TASC, http://www.tasc-il.org/Preview/abouttasc.html (last visited Apr. 8, 2011).

52 Initially, the Miami Court only accepted the following crimes: “possessing or purchasing drugs, tampering with evidence, solicitation for purchase, or obtaining a prescription by fraud.” Daniel M. Filler & Austin E. Smith, The New Rehabilitation, 91 IOWA L. REV. 951, 966 (2006).


54 Ibid.

55 Ibid.

56 Filler & Smith, supra note 52, at 966.

57 What Are Drug Courts?, supra note 53.

58 Id.
the program, his charges may be dismissed, his sentence may be reduced or set aside, or he may only have to pay a lesser penalty. However, if the offender fails out of the program, he will be prosecuted immediately and sentenced.60

There are currently more than 2300 drug courts operating throughout the United States,61 which receive both federal and state funding. With nearly 80% of the imprisoned population abusing alcohol and drugs, drug courts have been working to decrease both drug use and recidivism rates.63 The recidivism rate for incarcerated drug users who commit drug-related offenses within three years after release is approximately 70%,64 while the rate of recidivism for drug-court graduates is much lower, between 16 and 27% in the first two years after release.65 Reduced recidivism results in reduced prison costs and a reduction in “revolving-door” arrests and trials.66

B. Juvenile Courts

Modeled after drug courts, juvenile courts were created to provide the same rehabilitative programs to children offenders,67 over one million of whom faced delinquency charges68 in 1997 alone.69 While there are many

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59 Drug Strategies, supra note 48, at 5.
60 Id. at 6.
61 Types of Drug Courts, supra note 53.
63 See Facts on Drugs and Crime, supra note 54, at 1-2.
65 Facts on Drugs and Crime, supra note 54, at 2.
66 Id. (explaining that drug court programs save the community on average between $4000–$12,000 per offender).
67 Filler & Smith, supra note 52, at 968-69 (crediting Circuit Judge John Parnham with creating the first juvenile specialty court, a juvenile drug court, in Escambia County (Pensacola), Florida in 1995).
68 “Delinquency charges” are charges of criminal misconduct committed by juvenile offenders. See Leslie J. Harris & Lee E. Teitelbaum, Children, Parents, and the Law: Public and Private Authority in the Home, Schools, and Juvenile Courts 305 (2d ed. 2006). On the other hand, “[c]hildren who engage in noncriminal misconduct are often labeled
different types of juvenile courts, they are all founded upon the principle of treatment for the offender.\textsuperscript{70} The process of bringing an offending youth through a juvenile court is similar to the process used in drug courts, and this is especially so in the case of Juvenile Drug Courts ("JDCs"): 

The JDC process . . . usually begin[s] with an arrest, followed by some form of screening and assessment to determine each youth’s eligibility for [juvenile] drug court. The court meets with each offender regularly, often weekly . . . . Before each hearing, the judge may meet with the [JDC] team (probation officer, case manager, prosecutor, defense attorney, treatment provider, school representative, and so on) to review the sanctions and services ordered for each youth, assess their effectiveness, and make any needed modifications in treatment and supervision arrangements.\textsuperscript{71}

Like adults in drug court, juvenile offenders in JDC undergo treatment for the underlying substance abuse issues that they face and because of which they committed criminal offenses.\textsuperscript{72} If an offender successfully completes the treatment program, his charges are either dismissed or his sentence is reduced; however, if he fails to complete the program then he will be sent back to regular juvenile court and sentenced on the original charges.\textsuperscript{73}

There are, however, two important differences between adult drug courts and JDCs: in the latter, the court ‘place[s] a greater emphasis on the

\textsuperscript{70} See Filler & Smith, supra note 52, at 969.

\textsuperscript{71} See Jeffrey A. Butts & John Roman, Drug Courts in the Juvenile Justice System, in JUVENILE DRUG COURTS AND TEEN SUBSTANCE ABUSE 1, 8-9 (Jeffrey A. Butts & John Roman eds., 2004).

\textsuperscript{72} See id. at 7. “[JDCs] focus [solely] on juvenile delinquency . . . and status offenses ([i.e.,] truancy) that involve nonviolent substance-using juveniles.” John Roman et al., American Drug Policy and the Evolution of Drug Treatment Courts, in JUVENILE DRUG COURTS AND TEEN SUBSTANCE ABUSE, supra note 71, at 27, 50.

\textsuperscript{73} See Butts & Roman, supra note 71, at 9.
role of the family” throughout the entire process as a means of support for the offending juvenile while he is undergoing treatment.74 Additionally, JDCs “usually include more significant outreach to each offender’s home and community . . . to mobilize the efforts of other significant people in the youths’ lives to create teams of program partners that can teach, supervise, coach, and discipline youthful offenders.”75 This is important because support for juvenile offenders in various areas of their lives is paramount for their success in the treatment program.76

III. Veterans Treatment Courts

A. Buffalo Veterans Treatment Court

The Buffalo Veterans Treatment Court (“Buffalo Court”) was the first specialty court of its kind in the United States, established in January of 2008 under the direction of Buffalo City Judge Robert T. Russell, Jr.77 Modeled after the county drug and mental health courts, the Buffalo Court was established to serve both rehabilitative and preventative functions: offering treatment to veterans who suffer from serious physical and emotional conditions that have led to their criminal behavior,78 while at the same time reducing the risk of recidivism.79 The criminal justice system lacks the resources necessary to offer treatment to veterans,80 but the Buffalo Court works closely with the United States Department of Veterans Affairs (“VA”) as well as local veterans organizations, police agencies, and mental health experts to provide rehabilitative treatment to veterans via their veterans benefits.81 Veterans and active-duty military service members are eligible for certain benefits through the VA, including health

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74 Id. at 8.
75 Id.
76 See id.
77 Zremski, supra note 3. Judge Russell also presides over the Buffalo Drug Treatment Court which began in 1995, as well as the Buffalo Mental Health Treatment Court which began in 2003. Timothy S. Eckley, Veterans Court in Session in Buffalo, 92 JUDICATURE 43, 43-44 (2008).
78 See Ruggeri, supra note 8 (“The court is tailored to veterans’ specific needs and can better take into account their physical and emotional condition.”).
79 Lou Michel, Giving Vets in Trouble Help, Not Jail, BUFFALO NEWS, Jan. 12, 2008, at A1, available at 2008 WLNR 687611 (explaining that the recidivism rate in the Buffalo Court is well below the national average).
80 See id. (stating that the goal of the Buffalo Court is to reach troubled veterans before they enter a criminal justice system that lacks rehabilitative resources and quoting someone involved with the Buffalo Court as saying: “[W]hile the criminal justice system lacks the resources to treat veterans, it will make a difference with the [Buffalo Court]”).
81 Lou Michel, ‘Today’ to Showcase Local Court for Veterans, BUFFALO NEWS, Sept. 22, 2008, at B1, available at 2008 WLNR 18022691; Ruggeri, supra note 8 (“[T]reatments are usually done through the VA . . . .”).
and rehabilitation programs; substance abuse treatment; medical evaluation for disorders associated with military service; housing; and vocational rehabilitation and employment, including job search assistance and vocational and educational training.\footnote{82} 

Eligibility to take part in veterans treatment court proceedings is limited to veterans\footnote{83} who, because of their service in a combat zone or hazardous duty zone, suffer from PTSD, a TBI, or other mental disease, and are consequently facing criminal charges.\footnote{84} The only crimes presented before the Buffalo Court are low-level, nonviolent misdemeanors and felonies; more serious crimes continue to be brought in the regular criminal justice system.\footnote{85} At the time when a service member is arrested, local police record his veteran status to determine whether he is eligible for participation in the Buffalo Court.\footnote{86} Once inside the Buffalo Court, a VA employee meets with each veteran to ascertain whether that veteran is registered with the VA; if the veteran is not registered, registration takes place on the spot and the veteran can therefore be enrolled in rehabilitation and treatment programs immediately.\footnote{87}

When veterans are brought before the Buffalo Court, they “are required to plead guilty to their crimes. In exchange for a suspended sentence that can include prison time, they must consent to [undergo a] strict rehabilitation program that includes] regular court visits, counseling[,] and random drug testing [if applicable].”\footnote{88} Thereafter, veterans are required to adhere to strict rehabilitation programs and monthly court appearances to keep the court apprised of their progress.\footnote{89} Rehabilitation and treatment programs are not a means for veterans to get


\footnote{83} Eligibility is also extended to active-duty service members who are eligible to receive VA benefits. For purposes of this Note, I will continue to use “veteran” to describe those eligible to take part in veterans treatment court proceedings. Eligibility for veterans and active-duty service members alike is conditioned upon receiving an other-than-dishonorable discharge from the military; those dishonorably discharged from the military do not receive any VA benefits. See supra note 4.

\footnote{84} See Buffalo Veterans’ Benefits, supra note 82 (“[The] VA provides free health care for veterans who served in a theater of combat operations after November 11, 1998, for any illness possibly related to their service in that theater.”); supra note 5 and accompanying text.

\footnote{85} Zremski, supra note 3; see Riccardi, supra note 2.


\footnote{87} See id.

\footnote{88} Riccardi, supra note 2.

\footnote{89} Zremski, supra note 3; see also Murray Light, Op-Ed., City Court Rescues Fallen Soldiers, BUFFALO NEWS, June 15, 2008, at H3, available at 2008 WLNR 11372236 (“The veterans involved in the program have to report about once a month to update the court on their progress.”).
off easy; rather, they are a means to hold veterans ultimately accountable for their behavior90: if the veterans fail out of the programs then their sentences are imposed, and they face incarceration.91 However, if the veterans graduate from the eighteen-month-long program, their charges are dropped, and they can rejoin society.92

One of the key components of the Buffalo Court’s success is the volunteer mentoring program:

Mentors serve a variety of roles, including coach, facilitator, advisor, sponsor, and supporter. Mentors listen to the concerns and problems of participants and assist them in finding resolutions. They observe participants and work with them to help set goals and action plans. Mentors provide feedback to participants and highlight their successes. Most importantly, mentors act as a support for the veteran participant in a way that only other veterans can.93

Mentors are all community volunteers, most of whom are either other veterans or active-duty officers94 who have served in either Vietnam, Desert Storm, Iraq, or Afghanistan.95 One of the reasons that the mentoring program is so successful among veterans is the military camaraderie that it fosters.96 An environment97 that puts veterans alongside other veterans

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90 Ziems, supra note 3 (“The hammer [you have] is that if these guys [do not] behave, they go back to jail. . . . That’s the ultimate accountability.” (quoting Rep. John Boozman)).
91 See Riccardi, supra note 2 (“Should they waver from the straight and narrow, their sentence[s] [go] into effect.”).
92 Ed Treleven, Rock County Offering Special Court for Veterans, Wis. St. J., July 19, 2009, at A1, available at 2009 WLNR 13879915 (“It takes up to [eighteen] months to get through the program . . . .”); see Robert T. Russell, Veterans Treatment Court: A Proactive Approach, 35 NEW ENG. J. ON CRIM. & CIV. CONFINEMENT 357, 369 (2009) (“Upon successful completion of the program, not only are veterans sober and stable, many also have their charges reduced or dismissed, or receive a commitment of non-incarceration.”).
93 Russell, supra note 92, at 370.
94 Lewis, supra note 11.
95 Michel, supra note 81.
96 Ziems, supra note 3.

To facilitate the veterans’ progress in treatment, the prosecutor and defense counsel shed their traditional adversarial courtroom relationship and work together as a team. Once a veteran is accepted into the treatment court program, the team’s focus is on the veteran’s recovery and law-abiding behavior—not on the merits of the pending case.
goes a long way to breaking offending veterans’ warrior mentality and promoting rehabilitation—this is especially important considering that a number of the court members are themselves veterans or prior service members.

The Buffalo Court has formed partnerships with federal, state, and local authorities in order to successfully implement rehabilitation and treatment programs for veterans. Additionally, an ad hoc committee was formed to “assist in outreach and delivery of free legal services to veterans, service members and their families,” by attorneys who have knowledge in the particular areas of law that affect the lives of veterans and service members. In addition to pro bono legal services, Judge Russell volunteers his time to preside over sessions in the Buffalo Court that meet either weekly or bi-weekly, all of the mentors volunteer their time, and the VA and other local groups fund the treatment and rehabilitation programs. The only added expenses come from the need to hire a court coordinator and case managers to oversee veterans’ cases and their participation in treatment programs. While it may seem more costly for veterans to go through treatment programs under the direction of the Buffalo Court, it actually costs less than ten percent of the total amount spent on incarcerating an individual.

Russell, supra note 92, at 365 (emphasis added).

See Michel, supra note 81.

For example, Hank Pirowski, Project Director for the Buffalo Court, is a Marine veteran, and Jack O’Connor, Mentor Coordinator for the Buffalo Court, is an Army veteran. See Erie Cnty. Veterans Serv. Agency, The Buffalo Veterans Treatment Court, ERIE.GOV, http://www.erie.gov/veterans/veterans_court.asp (last visited Apr. 8, 2011).

Partners include: local VA organizations, the VA Health Center Network, police agencies, and mental health experts. See Michel, supra note 81; Russell, supra note 92, at 365.

The ad hoc committee is headed by Buffalo attorney Jennifer Stergion in partnership with the Erie County VA, the Volunteer Lawyers Project, the VFW, and other local groups. Michel, supra note 81.

Id.

See Ruggeri, supra note 8.


See Lewis, supra note 11.

See Ruggeri, supra note 8. Since veterans and active-duty service members who receive other-than-dishonorable discharges are eligible for VA benefits, see supra note 83, there is no added expense for the rehabilitation and treatment programs. See VA FACT SHEET, supra note 4, at 1. Additionally, in 2008, the U.S. Department of Health and Human Services “started offering grant money to community programs that divert people with trauma-related disorders, and especially veterans, from the criminal justice system.” Light, supra note 89.

See Ruggeri, supra note 8.

See id. (“[Hank Pirowski, the Buffalo Court’s Project Manager] estimates that the total cost of each veteran going through the court is $2,700. Jail, he says, costs between $30,000 and
From January 2008 to September 2009, 120 veterans entered the Buffalo Court’s treatment program.109 While three-fourths of the veterans who first appeared before the court did not have jobs,110 all are now employed or pursuing further education (save only five who failed out of the program and were returned to the regular criminal justice system).111 Because the program takes more than a year to complete,112 there were only eighteen graduates as of late 2009.113 However, more than ninety percent of the veterans’ treatment appointments have been kept;114 there have been no re-arrests; the homeless now have housing; and many of the veterans have been able to mend strained relationships.115

B. Other Veterans Treatment Courts in the United States

Since the Buffalo Court opened in January 2008, other counties in the United States have established veterans treatment courts, including El Paso County, Colorado;116 Rock County, Wisconsin;117 Lackawanna County, Pennsylvania;118 Cook County, Illinois;119 Madison County, Illinois;120 and

\[ \text{\$32,000 per year.} \] (emphasis added).

109 See Zremski, supra note 3.
110 Walters, supra note 97.
111 Zremski, supra note 3.
112 Daneman, supra note 104.
113 Zremski, supra note 3.
115 See Zremski, supra note 3; see also supra notes 37-38 (discussing homelessness and strained relationships among veterans).
117 See Treliven, supra note 92. Circuit Judge James Daley has been presiding over the Rock County Veterans Treatment Court since it opened in September 2009. See id. Wisconsin Supreme Court Chief Justice Shirley Abrahamson says that the veterans treatment court program “help[s] offenders recover and reduce[s] recidivism,” which is critical as nearly four thousand Wisconsin National Guard service members will be returning from Iraq within the next few years. See Ted Sullivan, Chief Justice Praises Veterans Court, JANESVILLE GAZETTE (Wis.), Jan. 14, 2010, at 3A, available at 2010 WLNR 850734.
119 See Matthew Walberg, Veterans Court Offers Helping Hand, CHI. TRIB., July 15, 2009, at 18,
Denton County, Texas. These veterans treatment courts follow the Buffalo Court model, extending eligibility only to those veterans whose “criminal behavior occurred because of a brain injury [TBI], mental illness[,] or mental disorder[,] or [PTSD] that occurred while they were in military service in a combat zone or a hazardous duty area.” To reiterate, there is no “free pass” when it comes to admitting veterans into a veterans treatment court; their eligibility is based not upon their status as a military veteran, but rather upon the notion that their criminal conduct was caused by an underlying physical or psychological injury that was incurred during military service in a combat zone.

These veterans treatment courts, like the Buffalo Court, recognize that offending veterans have specialized needs that have to be considered when determining appropriate rehabilitative programs to treat the underlying causes of their criminal behavior—specifically, combat veterans are trained to be violent, and therefore it is difficult for them to readjust to civilian life when returning home from deployment. The courts realize that “[w]hile

available at 2009 WLNR 13467430. The Cook County Veterans Court was started by Circuit Judge John Kirby in April 2009. See id.

121 See Brueggemann, supra note 32. The Madison County Veterans Court started in March 2009 and is presided over by Circuit Judge Charles Romani, Jr. See id.


123 It is important to understand that veterans in veterans treatment courts do not enjoy a privilege based upon their status as a military service member. “The [veterans treatment court] won’t be a free pass for men and women accused of crimes just because they happen to have a military background.” Id. (quoting Mitch Lyles, director of adult probation for Denton County). Consider one concern expressed by an American Civil Liberties Union spokesman comparing a proposed veterans treatment court in Nevada with the veterans treatment court established in Cook County, Illinois: “The concern expressed in Nevada was that individuals who served in the military were sort of automatically transferred into this special court and were provided some options for lower-level sentences. It was based on the [military] status rather than the crime.” See Walberg, supra note 119 (emphasis added) (quoting Ed Yohnka, spokesman for the ACLU of Illinois) (illustrating that the Cook County Veterans Court was “working well” because it did not grant any free passes to veterans based upon their status, but rather offered veterans treatment based upon the psychological damage these veterans suffered as a consequence of their combat service); see also id. (“Those who choose to participate in [veterans treatment courts] don’t receive any special treatment under the law.”) (emphasis added).

124 See Teatum, supra note 118 (“[V]eterans . . . are trained to be violent. That’s the reality of it. [They] come home on a Friday, and we expect them to transition and be back to work on a
the military does a better job now debriefing [service men and women] . . . they still face lasting physical and emotional problems caused by combat that sometimes lead to scrapes with the law.” 125 Those involved in the veterans treatment courts agree that incarceration is not going to solve these veterans’ problems; 126 rather, a collaborative effort to provide offending veterans with treatment will better serve their needs. 127

Like the Buffalo Court, other established veterans treatment courts operate upon the notions of treatment and accountability. 128 Additionally, they also employ a “team” approach; 129 veterans are screened upon intake into jail; 130 VA personnel remain in court to verify veterans’ benefits registration status; 131 VA resources fund treatment programs, which means that there are no extra expenses; 132 and offending veterans are “paired with mentors with similar military backgrounds.” 133 Like the Buffalo Court, these veterans treatment courts see the value in fostering an environment of military camaraderie in the court. 134 These courts can capitalize on the notions that these veterans “have had structure in their lives,” and “[i]f [the courts] can get them assistance, [they are] going to be all right.” 135 The fact

Monday.”” (quoting Pennsylvania Supreme Court Justice Seamus McCaffrey, a retired Marine Colonel).

125 Treleven, supra note 92 (quoting Circuit Judge James Daley who presides over the Rock County Veterans Treatment Court in Rock County, Wisconsin).

126 See Walberg, supra note 119.

127 See Sullivan, supra note 117 (“Judges are expected to handle cases and sentence offenders, but they also should help deal with societal problems such as addiction or mental health . . . .” (quoting Wisconsin Supreme Court Chief Justice Shirley Abrahamson)). Those types of societal problems are not uncommon among veterans. See supra Part I.B.

128 See Sullivan, supra note 117 (explaining that even though the veterans treatment courts work to “help offenders recover and reduce recidivism, . . . the offenders are [still] held accountable”).

129 See Ted Sullivan, Rock County Is Home to State’s First Veterans Court, JANESVILLE GAZETTE (Wis.), Sept. 20, 2009, at 3A, available at 2009 WLNR 18553795 (explaining that, for example, the Rock County Veterans Treatment Court would be premised upon an agreement between the prosecution and defense counsel to admit eligible offending veterans into court in order to provide them with rehabilitative programs in exchange for their guilty pleas).

130 See Walberg, supra note 119.

131 See Treleven, supra note 92.

132 See Walberg, supra note 119 (“There’s no extra cost because what this really does is place [veterans] into services that are already out there.” (quoting Circuit Judge John Kirby of the Cook County Veterans Court in Illinois)).

133 Sullivan, supra note 117.

134 See Brueggemann, supra note 32.

135 Id. (quoting Tyler Bateman, public defender for the Madison County Veterans Court in Illinois). Indeed, Bateman has explained that veteran offenders, because of the military structure in which they have lived their lives, are different from other types of offenders in that “they arrive on time [to court] and they all stand when the judge enters the courtroom.”
that “veterans [have] had discipline and followed orders at previous times in their lives” gives veterans treatment courts an in-road to helping offending veterans—the courts can “tap into [veterans’] ability” to be disciplined and follow orders, which will help the court to help veterans get the treatment they need. Further, the comfort level that veterans feel relating to other veterans also encourages offending veterans to participate in veterans treatment court programs since many members of the courts are themselves veterans.

IV. Veterans Treatment Courts: Capitalizing on the Benefits of Other Specialty Courts While Satisfying Veterans’ Specific Needs

A. Maximizing the “Team” Approach of Drug Courts and JDCs

Drug courts and JDCs use a “team” approach in court proceedings that eliminates the adversarial nature of criminal adjudication and fosters collaboration not only between the judge, prosecutor, and defense attorney, but also among mental health experts, treatment supervisors, probation officers, and case managers. The main purpose of this collaborative approach is to put the underlying needs of the individual offender above the court’s traditional administration of justice by sentencing criminal offenders to incarceration. Like these specialty courts, veterans treatment courts also employ a team approach that incorporates the efforts of the judge, prosecutor, defense attorney, mental health experts, case managers and the like, and whose focus is on treatment for offending veterans rather than incarceration. Veterans treatment courts, however, can make certain

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130 See Sullivan, supra note 129.
131 See Zeemski, supra note 3.
132 See Brueggemann, supra note 32 (explaining that Circuit Judge Charles Romani, Jr., who presides over the Madison County Veterans Court in Illinois, is a former Army Sergeant who served during the Vietnam War); Treleven, supra note 92 (explaining that Circuit Judge James Daley, who presides over the Rock County Veterans Treatment Court, is a Marine combat veteran “who took part in 24 ship-to-shore assaults in Vietnam from April 1967 to January 1968 [and,] [w]hen his combat rotation ended, . . . went home before his last posting in Virginia, flying into Milwaukee only 72 hours after his last fire fight”); Colorado Judicial Branch, News Release, supra note 116 (explaining that District Judge Ronald Crowder, who presides over the El Paso County Veterans Trauma Court, is a retired Major General of the Army National Guard).
133 See Meekins, supra note 50, at 91; supra text accompanying note 50.
134 See KEY COMPONENTS, supra note 50, at 3 (explaining that once the “team” comes together the focus shifts away from the merits of the case and onto the offender’s “recovery and law-abiding behavior”).
135 See supra note 97 (describing Judge Russell’s non-adversarial approach in the Buffalo Court, which is similar to the approach taken by drug courts and JDCs and focuses on the
changes to maximize this collaborative approach in order to help offending veterans.\textsuperscript{142}

1. \textit{Family Involvement}

As explained above, JDCs involve juvenile offenders’ family members in every stage of the rehabilitative process.\textsuperscript{143} Family involvement for JDC offenders is particularly important because the cause of a juvenile’s substance-abuse behavior can be linked to “developmental and family-related risk factors.”\textsuperscript{144} Thus, to involve a juvenile offender’s family in his treatment program helps to reinforce the rehabilitative regime at home (when the juvenile is out of sight of the court).\textsuperscript{145}

Like JDCs, veterans treatment courts should also involve the veterans’ families in every stage of the rehabilitative process. Recall that veterans in veterans treatment courts suffer from PTSD, TBIs, or other mental diseases that can cause substance abuse, domestic violence, or other criminal activity.\textsuperscript{146} Also, as a consequence of PTSD, veterans may suffer from homelessness, strained relationships, unemployment, and mental health issues.\textsuperscript{147} Arguably, the negative consequences of PTSD, TBIs, and other combat-related mental injuries, affect the veterans’ families because they all put pressure on already-strained family relationships.\textsuperscript{148} Like juvenile offenders in JDCs, veteran offenders need support at home to reinforce the rehabilitative process. Juvenile offenders in JDCs, in addition to support from family members, also receive support from members of their community—”significant people in the youth’s lives” who help the juvenile offenders by teaching, coaching, supervising, and supporting them.\textsuperscript{149} However, while veterans treatment courts reach out to mentors and local VA organizations,\textsuperscript{150} the “significant people” in veterans’ lives are their families—they are the ones whom veterans had to leave behind in order to fight in combat, and they are the ones who veterans come home to.

\textsuperscript{142} See infra Part IV.A.1-2.
\textsuperscript{143} See Butts & Roman, supra note 71, at 8.
\textsuperscript{144} Id.
\textsuperscript{145} See id.
\textsuperscript{146} See supra text accompanying note 9.
\textsuperscript{147} See supra Part I.B.
\textsuperscript{148} For a discussion of the effects of combat on veterans’ family relationships, see supra note 38 (explaining that multiple and prolonged deployments put too much strain on veterans’ personal relationships, so much so that nearly twenty percent of OEF/OIF veterans are legally separated or divorced).
\textsuperscript{149} See Butts & Roman, supra note 71, at 8.
\textsuperscript{150} See supra Part III.
Therefore, it is very important that veterans treatment courts involve veterans’ families in the rehabilitation process, for they are the ones who will reap the benefits of the treatment that veterans will receive at the direction of and with the support of the veterans treatment courts.

2. Training Veteran Mentors

As explained above, juvenile offenders in JDC receive outside support and guidance from family members as well as members of the community to help them successfully complete their treatment programs. However, neither drug courts nor JDCs have implemented mentoring programs where similarly situated individuals help to coach the offenders through the rehabilitative process; veterans treatment courts, however, have added veteran mentors to their “team,” which has helped to foster a military-like environment within the courts. As explained above, the mentors are either veterans or active-duty officers, most of whom served in combat operations during OEF/OIF or previous wars. Veterans treatment courts have found that the veterans are responding positively to the peer mentoring because the offending veterans can relate to their mentors as people who truly understand what it is like to stand in their shoes because their mentors have served in combat tours themselves. Mentors relate to the veterans through their shared military experiences, and this is important because it fosters camaraderie and helps to break the veterans of their “warrior mentality,” so that they will be much more receptive to treatment.

This Note, however, argues that it is not enough that mentors can relate to offending veterans and support them in their rehabilitative programs; rather, veterans treatment courts should implement mentor training programs that should educate mentors on court procedures and the various rehabilitation programs. In Wisconsin, the La Crosse County Veterans Court Initiative Mentors Program was created to teach mentors “about the court process, available resources, interviewing techniques[,] and the VA system.” Since mentors act as a link between veteran

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151 See supra Part IV.A.1.
152 See supra text accompanying notes 97-99 (explaining that an environment in which the veteran offender is surrounded by other military veterans goes a long way in fostering rehabilitation).
153 See supra notes 94-96 and accompanying text.
154 See Zremski, supra note 3 (“One reason [peer mentoring] works is the camaraderie that comes with serving in the military.” (quoting Patrick W. Welch, director of the Erie County Veterans Service Agency)).
155 See supra text accompanying notes 97-99.
offenders and veterans treatment courts, it is important that they understand various aspects of the veterans treatment court process so that during meetings with veteran offenders they can do more for them than merely relate to them on a personal level.157 With training, “[t]he mentor can discuss [with the offender] options on applying for veteran benefits and then get the veteran to meet with the county [VA] officer and do follow-up screenings to identify any potential mental health issues.”158 Trained mentors need not undergo extensive training in every area of the court process, but it is enough that they are trained to recognize when an individual is in need of specific VA or mental-health assistance.

B. Preventative Screening and Treatment Procedures to Prevent Criminal Conduct from Occurring at the Outset

Both drug courts and JDCs have implemented early screening procedures to identify those offenders who may be eligible for participation in treatment programs offered by specialty courts.159 Similarly, veterans treatment courts screen offending veterans upon arrest to determine whether they are eligible for participation in veterans treatment court programs.160 Eligible veterans are then taken to veterans treatment court where VA personnel determine whether they are registered to receive VA benefits, and if not, the veterans are registered on the spot.161 While this is an efficient means by which to ensure that all veterans treatment court participants are registered with the VA and receive their VA benefits, this Note argues that better programs should be implemented for returning combat veterans who suffer from PTSD, TBIs, and other mental diseases to ensure that these veterans receive preventative screening and treatment before any criminal conduct arises.

One way to reduce crime is to prevent it from happening at the outset. The statistics show that of the 1.6 million OEF/OIF combat veterans deployed in Iraq and Afghanistan, 25% of multiple-tour combat veterans suffer from PTSD, as compared to 12% of single-tour combat veterans;162 approximately 20% of combat veterans suffer from a TBI;163 and many combat veterans returning home from deployment are facing criminal
charges as a result of their PTSD or TBI.\textsuperscript{164} These numbers are significant and illustrate that large numbers of combat veterans should receive mental health treatment when returning home from deployment, regardless of their propensity to commit criminal offenses in the future. With the large numbers of troops who will be returning from deployment in the coming years,\textsuperscript{165} preventative treatment would go a long way in helping to treat veterans’ physical, mental, and emotional combat-related injuries, hopefully before they result in criminal conduct.

C. Looking Forward: Veterans Treatment Courts Should Consider Expanding Eligibility to Include Violent Veteran Offenders Who Also Suffer from PTSD or TBIs

Drug courts, JDCs, and veterans treatment courts all admit nonviolent offenders to participate in the courts’ rehabilitative programs.\textsuperscript{166} It makes sense that only nonviolent offenders would be admitted into such programs since successful completion by an offender means that the offender’s charges may be dismissed or his sentence may be reduced substantially.\textsuperscript{167} Violent offenses are left for adjudication in regular court sessions.\textsuperscript{166}

However, in the case of veterans treatment courts, an argument can be made that violent veteran offenders whose conduct is a consequence of the combat-related PTSD or TBIs from which they suffer would be more suitable for treatment in veterans treatment court than incarceration in the criminal justice system.\textsuperscript{169} Judge Russell of the Buffalo Court said, “[Establishing veterans courts is] the right thing to do for those who have made a number of sacrifices for us. If they’ve been damaged and injured in the course of their service . . . and we can help them become stable, we must.”\textsuperscript{170}

Judge Russell said—and studies have shown\textsuperscript{171}—that “[w]ar-related illnesses often contribute to . . . arrest, incarceration, divorce, domestic

\textsuperscript{164} See Riccardi, supra note 2; supra Part I.B.
\textsuperscript{165} See Roberts, supra note 5 (explaining that Fort Bliss is expected to grow from its current 20,000 troops to 34,000 troops by 2013, many of whom will be deployed); Sullivan, supra note 117 (explaining that approximately 3900 members of the Wisconsin National Guard are due to return home from Iraq in the coming years).
\textsuperscript{166} Zremski, supra note 3; see Riccardi, supra note 2; supra text accompanying note 52.
\textsuperscript{167} See supra text accompanying notes 88-92.
\textsuperscript{168} See Zremski, supra note 3.
\textsuperscript{169} See supra Part I.
\textsuperscript{170} Riccardi, supra note 2 (quoting Judge Russell).
\textsuperscript{171} See, e.g., supra notes 36-40 (explaining some of the statistics related to certain consequences veterans face as a result of PTSD).
violence, homelessness[,] and despair.”

Violent veteran offenders who suffer from PTSD, TBIs, or mental illness should be eligible for treatment in veterans treatment courts because they suffer from the same underlying injuries and illnesses that have caused their criminal behavior that nonviolent veteran offenders suffer from. It is argued:

“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?

Because war-related mental illnesses such as PTSD and TBIs are a direct consequence of the combat environment in which these veterans have had to live for extended periods of time, and in many cases for multiple tours, treatment for these illnesses—not incarceration—is the only way to break the cycle of violent criminal behavior.

By no means does this Note condone violent criminal behavior or argue that veterans should get off easy because of their veteran status. To the contrary, this Note argues that violent veteran offenders, just as nonviolent veteran offenders, should be held responsible for their crimes; however, since they suffer from the same underlying mental illnesses that cause their criminal behavior as their compatriots, they should be given equal access to veterans treatment courts that will offer them treatment in return for accountability. Just as nonviolent veteran offenders remain accountable to the court for the entire eighteen-month long rehabilitation program, so too should veteran offenders charged with violent crimes. They should be given the same system of rewards and sanctions as nonviolent veteran offenders: if they succeed, their sentence will be reduced, and if they fail then they will be sent to criminal court for

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172 Michel, supra note 81 (quoting Judge Russell).
174 See Michel, supra note 79 (explaining that the criminal justice system lacks the resources necessary to help veterans, arguably because they cannot offer veterans the necessary treatment to help them overcome the underlying mental illnesses or brain injuries that they suffer from and which cause them to commit criminal offenses).
175 See supra notes 90-92 and accompanying text (arguing that treatment programs through veterans treatment courts are not a means for offending veterans to get off easy because they are held to strict rehabilitation programs and they are held accountable for their participation—or lack thereof—in such programs and illustrating that, if they succeed, they are rewarded with dismissal of the charges or a reduced sentence, but if they fail they are immediately prosecuted and sentenced in regular court).
176 See supra notes 173-74 and accompanying text.
177 See supra Part III.A.
prosecution.\textsuperscript{178}

\textbf{CONCLUSION}

OEF/OIF veterans are unique in that since they face multiple and prolonged periods of combat, the trauma that they experience can lead to heightened, chronic anxiety that can cause them to engage in criminal behavior. Veterans treatment courts, while modeled after drug courts and juvenile courts, can extend the “team” approach created by these courts in order to provide these veterans with better-suited rehabilitative programs to meet their specialized needs. The courts should extend the team model to include veterans’ family members during all stages of the rehabilitative process. This ensures that veterans continue to receive support and guidance at home from those who are most significant in their lives. Additionally, the courts should implement mentor training programs to educate veteran mentors so that they can do more for offending veterans than just relate to them—they will be able to recognize when offending veterans are in need of VA or mental health assistance and can more effectively guide the veterans through the court process. Further, veterans treatment courts should work closely with the VA to implement screening and treatment procedures to treat veterans suffering from PTSD and TBIs in an effort to prevent criminal offenses from happening in the first place.

Finally, an argument can be made that veterans treatment courts should consider extending eligibility to violent veteran offenders. Such offenders suffer from the same underlying physical or psychological injuries as nonviolent veteran offenders, and such injuries were sustained in the same theater of combat. Therefore, one can argue that these violent veteran offenders—combat veterans who have been trained to be violent—are those most in need of rehabilitative programs. This does not mean that violent veteran offenders will not be held accountable for their conduct; it only means that they should be given the same opportunity for rehabilitation that is available to nonviolent veteran offenders. Violent veteran offenders will be held to the same strict rehabilitative program as nonviolent veteran offenders, and will suffer the same consequences for failure to conform their behavior.

\textsuperscript{178} See supra Part III.A.