

# Domestic Violence Laws Unfairly Harm Injured Veterans and Their Families

HON. EILEEN C. MOORE

**T**he effects of two developments that began during the Vietnam War era are colliding in our courts today. First, after our returning Vietnam veterans were treated so shabbily, we, as a country, had to learn that it was acceptable to hate a war while, at the same time, love its warriors. Second, and entirely unconnected to the treatment of Vietnam veterans, activists were finally able to force the issue of domestic violence upon the national scene and to secure change.

During the 1960s and 1970s, Vietnam service members were allegedly spit upon in airports. Today's service members and veterans are applauded. There is a national effort that includes all three branches of government, private and religious organizations, and many dedicated individuals working toward doing right by those who have served our country.

As to battered women,<sup>1</sup> during and after the women's liberation movement that began in the late 1960s, advocates across the country fought long and hard to force police and prosecutors to treat victims of domestic violence with the same dignity and respect shown to victims of other crimes. Now tough domestic violence laws are in place throughout the country.

It is time to look at our domestic violence laws with an eye toward fair and respectful treatment of injured veterans and their families. Of course, some violent veterans are nothing more than typical brutish batterers. But not all of them. Those who served in the military, who act out as a result of an injury sustained while serving, deserve

more than having their families split apart with restraining orders, removal of their children by social services agencies, and incarceration. Along with their families, they should be shepherded into healing by way of separate court proceedings.

## Public Attention Drawn to Domestic Violence

Before the start of the battered women's protection movement in the late 1960s, the criminal justice system treated domestic violence as a private matter in which the government had no business interfering. At shift briefings, police watch commanders told their troops something to the effect of "Remember, if you catch a fish, you gotta clean it." Violence against women by husbands, boyfriends, and lovers remained shrouded in silence. Both law enforcement and society treated the situation as the couple's business, and no one else's.<sup>2</sup>

Then in the late 1970s the criminalization of wife-beating became part of a larger strategy to alter cultural attitudes about violence against women. In New York City in 1979, 12 battered wives brought a class action lawsuit against the court, the probation department, the police, and other officials.<sup>3</sup> They claimed courts and police engaged in a pattern of conduct that was designed to dissuade battered women from calling the police or going to court. In Oakland, Calif., in 1976 another group of domestic violence victims filed a class action against the Oakland Police Department.<sup>4</sup>

Eventually, America stood ready to recognize domestic violence as a problem requiring legal attention, and major legal responses took place. Laws were passed and training was given to police and prosecutors.<sup>5</sup> Batterers' treatment programs emerged during the 1980s.<sup>6</sup> Laws mandated, or at least authorized, the warrantless arrest of a domestic violence suspect.<sup>7</sup> By 1981, all but four states had enacted statutes designed to abate domestic violence.<sup>8</sup> Civil restraining orders became commonplace. Battered women's shelters, counsel-

ors, legal services, and support groups emerged in many communities.<sup>9</sup> The states tried different statutory approaches. Some required mandatory arrest of the perpetrator, others had the police order the man out of the house, and some states required mediation<sup>10</sup> or mandated pre-trial diversion programs.<sup>11</sup>

### Domestic Violence and Children

Until the last part of the 20th century, few researchers considered the impact of domestic violence on children who witnessed the behavior, unless the children themselves were abused. The prevailing wisdom evolved to conclude that children who live in an environment of domestic violence exhibit aggravated behavioral problems. Studies indicated that children witnessing domestic violence suffered harm, including shock, guilt, low self-esteem, and impairment of developmental and socialization skills.<sup>12</sup> Juvenile courts began to remove children from homes where there was domestic violence.<sup>13</sup>

Unfortunately, children who witnessed abuse were susceptible to being victimized by the state stepping in to protect them. It was easier for the state to remove the children from their homes to prevent further harm, but being removed from their homes was in itself a traumatic event. Experts became concerned about protecting children from that trauma.<sup>14</sup>

Today judges evaluate the threat of domestic violence when determining child custody.<sup>15</sup> Many states guide the custody inquiry with statutory presumptions against awarding custody to abusers. For example, California imposes a presumption that child custody “is detrimental to the best interest of the child” if the person seeking custody has perpetrated domestic violence within the previous five years.<sup>16</sup> The presumption may be rebutted, but in deciding whether it has been rebutted, the court may consider seven, and only seven, factors. None of those factors mention anything about a parent’s prior military service.<sup>17</sup>

### Health Issues Resulting From Military Service

Psychiatric casualties of combat are as old as war itself. Post-traumatic stress disorder (PTSD) was officially acknowledged as a disabling psychiatric injury in the third edition of the *Diagnostic and Statistical Manual of Mental Disorders* in 1987.<sup>18</sup> PTSD is recognized as a human response to trauma that is beyond the capacity of a particular individual to manage. It may result from one catastrophic event, a barrage of traumatic events, or constantly performing actions that run counter to one’s moral or ethical beliefs.<sup>19</sup>

PTSD is a disorder about which much remains to be learned. It can be painful and frightening.<sup>20</sup> The amygdala in the midbrain is crucial to PTSD, in that it is particularly attuned to identifying potential threats in the environment and processes responses to these threats as a hyperarousal state that can be replicated in later encounters with trauma-related stimuli.<sup>21</sup> Researchers believe the brain is changed by PTSD, and its sufferers have an increased likelihood of developing psychotic and mood disorders. Its victims often have vivid flashbacks.<sup>22</sup>

A psychiatric journal quotes a report from a Vietnam veteran:

I can’t get the memories out of my mind! The images come flooding back in vivid detail, triggered by the most inconsequential things, like a door slamming or the smell of stir-fried pork. Last night, I went to bed, was having a good sleep for a change. Then in the early morning a storm front passed through and there was a bolt of crackling thunder. I awoke instantly, frozen in fear. I am right back in Vietnam, in the middle of the monsoon season at my guard post. I am sure I’ll get hit in the next volley and convinced I will die. My hands are freezing, yet sweat pours from my entire body. I feel each hair on the back of my neck standing on end. I can’t catch my breath and my heart is pounding. I smell a damp sulphur

## 50 Years Later: Vietnam Veterans Still Getting the Short End of the Stick

BY HON. EILEEN C. MOORE

Those who served in Vietnam had a much different experience on the home front than our more recent veterans, who have enjoyed appreciation and applause. Antiwar protesters chanted, “Hey, hey LBJ, how many kids did you kill today?” Bumper stickers read, “Want to take a voyage to far off places, meet exotic people and kill them?”

When Vietnam vets came home, post-World War II babies were teenagers and young adults, and baby boomers were a force to be reckoned with. Those who served returned in the midst of the Civil Rights and Women’s Liberation Movements, as well as protests, rallies, demonstrations, and sit-ins for almost every conceivable social change. Congress passed the 1965 Immigration and Nationality Act, eliminating the immigration system favoring Euro-

peans that had been in effect since 1924 and opened the country to people from the Eastern world. The country saw an influx of people from non-Western cultures, and America did not look the same anymore. The U.S. Supreme Court relaxed obscenity laws, resulting in vulgar language and sexual scenes in films playing in neighborhood movie theaters. Timothy Leary told America’s youth to turn on, tune in, and drop out on LSD. With the introduction of the birth control pill, the country saw a sexual revolution.

Americans were angry, viewing a war they didn’t understand as just one more sign of their country gone amuck. Its soldiers fighting that war, most of whom were drafted, were viewed with disdain.

Meanwhile, in the jungles of Vietnam,

our boys dreamed of home. They loved their country and just wanted to survive and come back to it. But when they did, there were no parades. Many chapters of traditional veterans groups shunned those who served in Vietnam, so they had to form their own organization. The motto of Vietnam Veterans of America is: “Never again will one generation of veterans abandon another.”

Most Vietnam vets quietly returned to their civilian lives, often avoiding mention of their service in Vietnam. Others, however, were not able to make the transition. Whatever horrors they experienced or moral injuries they suffered kept them from moving on with their lives.

They needed help, particularly mental health services. Receiving none, they resorted to self-medication. Some then staked

smell. Suddenly I see what's left of my buddy Troy, his head on a bamboo platter, sent back to our camp by the Viet Cong. Propaganda messages are stuffed between his clenched teeth. The next bolt of lightning and clap of thunder makes me jump so much that I fall to the floor....<sup>23</sup>

The Army's first study of the mental health of troops who fought in Iraq found that about 1 in 8 reported symptoms of PTSD.<sup>24</sup> It is the most common health disorder diagnosed in veterans returning from our wars in Iraq and Afghanistan.<sup>25</sup> Pain in the aftermath of trauma often triggers PTSD.<sup>26</sup> More than 50,000 service members have been physically injured in combat, and even more are later diagnosed with Traumatic Brain Injury (TBI) or PTSD.<sup>27</sup> Because PTSD can take years to surface, some experts project as many as 700,000 of our present veterans may suffer now or later from PTSD.<sup>28</sup>

Although PTSD is considered a psychiatric disorder, physical symptoms and alterations occur throughout the entire body. Changes occur to brain tissue, the immune system, hormonal balance, and cardiovascular function.<sup>29</sup>

In addition to PTSD and TBI, our veterans have other health disorders. The largest study of mental health risks in the military as of 2014 found significant differences in the higher rates of disorders like major depression and intermittent explosive disorder among veterans and service members as compared to civilians.<sup>30</sup> Today soldiers survive injuries that probably would have killed them during prior wars. Thus, there are higher rates of TBI than was seen in the past<sup>31</sup> and higher rates of PTSD as a result of brain injuries.<sup>32</sup> The symptoms of TBI and PTSD overlap.<sup>33</sup> Even mild TBI predisposes the brain toward heightened fear during stressful post-injury events. Experts are working at understanding the comorbidity of PTSD and TBI.<sup>34</sup>

### Domestic Violence Related to Military Service Injuries

Re-entry into marriage, family, jobs, and the community presents challenges for returning soldiers, especially those who face additional deployments. Actions that are expected and normal in the military are often unacceptable and sometimes criminal in civilian life. Logically connected to PTSD are anger, irritability, hypervigilance, increased startle response, depression, and emotional numbing, all of which can lead to criminal behavior. Home is usually the place where the stress, frustration, and turmoil of adjusting to civilian life negatively plays out.<sup>35</sup>

Concern about violent offenses among returning military personnel has been voiced since the end of World War I. Government statistics published by both the United States and the United Kingdom show formerly serving military personnel, although they are less likely than the general population to be in prison, are over-represented among those imprisoned for violent offenses.<sup>36</sup> PTSD often presents itself with suicidal ideation and aggression. One study reported that a third of its participants reported at least one act of physically aggressive behavior.<sup>37</sup>

Since Sept. 11, 2001, there has been a marked increase in military deployments. Military families, already facing frequent relocations, lengthy separations, and potential injury of the serving family member, experience a pileup of life stressors as they worry about increased deployments.<sup>38</sup> The impact of military service can manifest itself on the lives of everyone in a veteran's family in countless ways. Military experience, particularly multiple deployments, strains marriages and other relationships.<sup>39</sup>

Since the U.S. military began fighting in Iraq and Afghanistan, approximately 2 million military children have seen a parent deployed in harm's way. When a service member has PTSD, TBI, or any other military-related stress disorder, its effects can reverberate throughout the family. The parent is unable to fully engage with the children,

out a street corner or highway exit, wearing tattered fatigues and holding a sign and a tin cup. It is no wonder some committed crimes.

What is a wonder is that some are still wasting away in prison. Lawyers trying to prepare Vietnam vets to appear before parole boards report there is something different about these men. They show "absolutely no emotion." Lawyers say these inmates seem to be unable to even process the notion of taking responsibility for their actions. Unless they do accept responsibility, of course, no parole board will conclude society will be safe if they are released.

So why doesn't the Department of Veterans Affairs (VA) provide these men the mental health services they should have received during the 1960s and 1970s? It is common knowledge the VA does not

provide state prison inmates with treatment for post-traumatic stress disorder (PTSD) or mental health services. But why? No one seems to be able to explain the reason. VA Secretary Robert McDonald was asked that very question several months ago, but as of the date this column was drafted still has not responded to a letter sent to him.

A regulation, 38 C.F.R. § 17.38, is probably responsible for the VA's not providing services to inmates in state prisons. However, that regulation seems to limit VA treatment only for "a veteran who is either a patient or inmate in an institution of another government agency if that agency has a duty to give the care or services."

Just like the VA, many states do not provide mental health services for PTSD. California is one. Left untreated are incarcer-

ated veterans suffering from PTSD and other mental health problems likely resulting from military service.

The fact that they are still in prison leaves little doubt that these men committed serious crimes and deserved to be punished. Nonetheless, the least we can do is give Vietnam veteran inmates mental health services for illnesses they incurred fighting a war for their country. Then they would have a fair chance at putting their best foot forward before a parole board. Our other alternative is to continue to watch them die in prison. ©

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which affects the children's ability to cope. The uninjured parent may not be able to engage as fully either, since that parent has to take on some of the responsibilities of the injured parent. Relationships between parents and children, or between spouses, may become further strained as their roles change.<sup>40</sup>

An Oregon lawyer who frequently represents veterans in domestic violence cases says the typical scenario involves the nonmilitary spouse attempting to re-establish intimacy, either physically or by asking questions about wartime experiences. Unable or unprepared for such intimacy because of PTSD, the veteran responds physically or with threats. The spouse seeks a restraining order, and a social services agency becomes involved when there are children in the home. The veteran is not treated as an injured warrior, but as a batterer who needs to be separated from the family.<sup>41</sup>

Military families appear to be exceptional in their ability to cope and adapt to the frequent moves and deployments required by the military. However, their ability to adapt may, sadly, miscarry. Some remain quiet and aloof to volatile emotions and outbursts involved in the service member's deployment-related problems. When family troubles begin, that special quality of military families to keep things running smoothly despite deployment stress, may inadvertently result in major problems. Situations that might not get out of hand in nonmilitary families may reach a boiling point in the military family and result in ultimately splitting up the family with restraining orders or the removal of children.<sup>42</sup>

The children may experience emotional problems and act out if the family becomes disorganized or dysfunctional. Children with a parent suffering from TBI display more behavior and emotional problems. They can be expected to exhibit disruptive behavior, poor academic performance, and substance abuse. They feel loss and grief at the emotional change in the injured parent. Many children themselves meet the criteria for PTSD.<sup>43</sup>

In addition to the usual issues faced by the victim of domestic violence such as fear, isolation, and economic concerns, the victim who is a spouse or domestic partner of a violent service member has other concerns as well. Because of chain-of-command requirements, the line of authority within the military that requires reports to be made to a person in the next higher rank, information about domestic violence might not be kept confidential, which may be particularly difficult for military people who so strongly strive to preserve their self-respect and honor.<sup>44</sup> In addition to the risk of lack of confidentiality concerning a domestic violence incident, the military spouse or domestic partner who is a victim of domestic violence and seeks help, must make a very tough decision. If there is a restraining order, the military will likely terminate the service member's employment because domestic violence laws will not permit the military person to carry a weapon, which is a requirement for the job.<sup>45</sup>

An alarming 60 percent of families of those who served in Iraq and Afghanistan and who were referred for mental health evaluations, have had an episode of domestic abuse.<sup>46</sup> Suicides by former and current military personnel comprise 20 percent of all U.S. suicides, and 32 percent of those suicides have been precipitated by a problem with an intimate partner.<sup>47</sup>

Professionals realize that military families deserve respect and assistance.<sup>48</sup> In recognition of this reality, the Department of Defense's Task Force on Mental Health concluded that when mental health is at issue, service members and their families need early intervention and treatment.<sup>49</sup>

## Separate Court Procedures Needed for Veterans Whose Domestic Violence is Related to Military Service Injuries

Our courts have evolved significantly since the days when battered women had to force our criminal justice system to treat them with the same regard given other victims of violent crimes. Also gone are the days when courts were purely adjudicative decision-making tribunals. Today, many courts are problem-solving institutions. Increasingly, they are structured toward referral of matters to social agencies and other institutions. Courts now recognize that problems involving family dysfunction, addiction, and domestic violence often prove to be resistant to conventional court solutions,<sup>50</sup> and they have developed sophisticated ways to deal with cases involving alcohol, drug abuse, mental health problems, and school truancy. Included in the modern, non-adjudicative approach to proceeding with cases are Veterans Treatment Courts.<sup>51</sup>

Not all veterans who inflict domestic violence are acting out as a result of their military injuries. Some are the power-and-control types that domestic violence laws are meant to target. To borrow a word used in the medical field, a triage must be performed. The justice system has the tools to distinguish a brutish thug committing domestic violence from an injured veteran acting out due to the injury. Some veteran batterers should be kept in the criminal courts. Others, however, should be diverted to a specially designed court when their violence results from physical or mental injuries sustained in the military. Goals should be toward keeping the family together, addressing emotional and safety issues, reducing the children's trauma and fears of abandonment,<sup>52</sup> and holding onto existing social support of family and friends.<sup>53</sup>

If such an alternate model is to be effective, the victim must be part of the decision-making process. The dynamics within military families are unique, and the victim's wishes cannot be ignored. Victims are usually fully supportive of the returning service member or veteran who is suffering from military-related health problems. Military families are often quite different from the families prosecutors saw at the time domestic violence laws were in the process of being developed and when critics were concerned about prosecutors requiring a victim's approval before filing charges.<sup>54</sup> Despite criticism of victim involvement in the past, some current domestic violence victims are kept informed of a batterer's progress in a court-ordered program.<sup>55</sup>

Under the proposed new model, once the initial sorting or triage decision has been made, and the veteran has been diverted from criminal prosecution, the whole military family must be placed in the capable hands of mental health professionals. Those experts will be able to determine pressure felt by a victim and report any pressure to the judge and team working on the case.

The U.S. Department of Veterans Affairs (VA) has made the care and support of military families one of its highest priorities. Its Office of Public Affairs declared: "We can never do enough for the families of the men and women who protect and defend our nation, and we are committed to improving and expanding our services throughout a broad range of programs. More often than not, military families are the first line of support and care for our veterans, and VA stands ready to assist in that endeavor."<sup>56</sup>

Existing Veterans Treatment Courts address only the needs of the veteran and not those of the whole family.<sup>57</sup> Nonetheless, the team approach used in Veterans Treatment Courts is instructive with regard to how criminal justice, mental health, and VA experts

can successfully develop a model for managing the cases of veterans charged with domestic violence. Considering the involvement of the VA with existing Veterans Treatment Courts around the country as well as the VA's stated commitment to military families, there seems little doubt the VA would be ready, willing, and able to assist state courts. Working together, federal and state personnel are quite capable of developing an alternative domestic violence treatment model for its wounded warriors and their families.

A quarter of those who fought in and survived heavy combat in Vietnam have been charged with criminal offenses. Projecting that statistic onto veterans from our current wars means 400,000 to 500,000 could be headed for a criminal courtroom, many with serious mental health issues. Since home is usually the place where the stress, frustration, and turmoil of adjusting to civilian life plays out,<sup>58</sup> logic tell us that many of those projected crimes by veterans will involve domestic violence. We should immediately take appropriate action, shepherding veterans into healing and not into isolation without their families. ☉



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## Endnotes

<sup>1</sup>When domestic violence emerged as a national issue, the focus was on battered women as victims. See, e.g., Kathleen Waits, *The Criminal Justice System's Response to Battering: Understanding the Problem, Forging the Solutions*, 60 WASH. L. REV. 267 (1985).

<sup>2</sup>See, e.g., Michael J. Voris, *The Domestic Violence Civil Protection Order and the Role of the Court*, 24 AKRON L. REV. 423 (1990).

<sup>3</sup>*Bruno v. Codd*, 393 N.E.2d 976, 977 (N.Y. Ct. App. 1979).

<sup>4</sup>*Scott v. Hart*, No. C-76-2395 (N.D. Cal. filed Oct. 28, 1976).

<sup>5</sup>Waits, *supra* n.1, at 316.

<sup>6</sup>Karen Oehme & Kelly O'Rourke, *Protecting Victims and Their Children Through Supervised Visitation: A Study of Domestic Violence Injunctions*, 3 FAULKNER L. REV. 261, 268 (2012).

<sup>7</sup>Don Siegelman & Courtney W. Tarver, *Victims' Rights in State Constitutions*, 1 EMERGING ISSUES ST. CONST. L. 163, n.6 (1988).

<sup>8</sup>Barbara K. Finesmith, *Police Response to Battered Women: A Critique and Proposals for Reform*, 14 SETON HALL L. REV. 74, 89-92 (1983).

<sup>9</sup>Natalie Loder Clark, *Crime Begins at Home: Let's Stop Punishing Victims and Perpetuating Violence*, 28 WM. & MARY L. REV. 263 (1987).

<sup>10</sup>Gary Brown, Karin A. Keitel & Sandra E. Lundy, Comment, *Starting a TRO Project: Student Representation of Battered Women*, 96 YALE L.J. 1985, n.133 (1987).

<sup>11</sup>Diane E. Reynolds, Note, *The Use of Pretrial Diversion Programs in Spouse Abuse Cases: A New Solution to an Old Problem*, 3 OHIO ST. J. ON DISP. RESOL. 415, 425 (1988).

<sup>12</sup>Amy Haddix, Comment, *Unseen Victims: Acknowledging the Effects of Domestic Violence on Children Through Statutory Termination of Parental Rights*, 84 CAL. L. REV. 757, 793 (1996).

<sup>13</sup>Allison Cleveland, *Specialization Has the Potential to Lead to*

*Uneven Justice: Domestic Violence Cases in the Juvenile & Domestic Violence Courts*, 6 MODERN AM. 17 (2010).

<sup>14</sup>Linda Quigley, Note, *The Intersection Between Domestic Violence and the Child Welfare System: The Role the Courts Can Play in the Protection of Battered Mothers and Their Children*, 13 WM. & MARY J. WOMEN & L. 867 (2007).

<sup>15</sup>Stephen J. Yanni, Note, *Experts As Final Arbiters: State Law and Problematic Expert Testimony on Domestic Violence in Child Custody Cases*, 116 COLUM. L. REV. 533 (2016).

<sup>16</sup>Arizona's statute is similar to the one in California and also does not mention that violence resulting from mental problems sustained while serving in the military may be considered. In some states, the statutory presumption against custody when there is domestic violence on the part of the person seeking custody permits the court to consider matters that arguably could include military service although not specifically stating such. Delaware's statutory presumption permits the judge to consider "exceptional circumstances that warrant rejection of the presumption." Haddix, *supra* n.12, at 793. Nevada's statutory presumption allows the court to consider "any other factors that the court deems relevant to the determination." Nev. Rev. Stat. Ann. § 125C.230 (LexisNexis 2010).

<sup>17</sup>Cal. Fam. Code § 3044 (West 2004) states:

(1) Whether the perpetrator of domestic violence has demonstrated that giving sole or joint physical or legal custody of a child to the perpetrator is in the best interest of the child....

(2) Whether the perpetrator has successfully completed a batterer's treatment program.... (3) Whether the perpetrator has successfully completed a program of alcohol or drug abuse counseling if the court determines that counseling is appropriate. (4) Whether the perpetrator has successfully completed a parenting class if the court determines the class to be appropriate. (5) Whether the perpetrator is on probation or parole, and whether he or she has complied with the terms and conditions of probation or parole. (6) Whether the perpetrator is restrained by a protective order or restraining order, and whether he or she has complied with its terms and conditions. (7) Whether the perpetrator of domestic violence has committed any further acts of domestic violence.

<sup>18</sup>AM. PSYCHIATRIC ASS'N, DIAGNOSTIC & STATISTICAL MANUAL OF MENTAL DISORDERS (DSM-III-R. 1987).

<sup>19</sup>BARRY R. SCHALLER, VETERANS ON TRIAL: THE COMING COURT BATTLES OVER PTSD 8-10 (2012).

<sup>20</sup>Doree Armstrong, *Brain Responses to Emotional Images Predict PTSD Symptoms After Boston Marathon Bombing*, UW TODAY (July 15, 2014), <http://www.washington.edu/news/2014/07/15/brain-responses-to-emotional-images-predict-ptsd-symptoms-after-boston-marathon-bombing>.

<sup>21</sup>Charles Stewart E. Weston, *Posttraumatic Stress Disorder: A Theoretical Model of the Hyperarousal Subtype*, 5 FRONTIERS IN PSYCHIATRY 37 (2014).

<sup>22</sup>Viatcheslav Wlassoff, *How Does Post-Traumatic Stress Disorder Change the Brain?*, BRAIN BLOGGER (Jan. 24, 2015), <http://brainblogger.com/2015/01/24/how-does-post-traumatic-stress-disorder-change-the-brain>.

<sup>23</sup>Weston, *supra* n.21, at n.14 (citing to M. Davis, *Analysis of Aversive Memories Using the Fear-Potentiated Startle Paradigm*,

in NEUROPSYCHOLOGY OF MEMORY 470-84 (L.R. SQUIRE & N. BUTTERS EDs., 2D ED. 1992)).

<sup>24</sup>Associated Press, *1 in 8 Returning Soldiers Suffers From PTSD*, MENTAL HEALTH ON NBC NEWS.COM (June 30, 2004), [http://www.nbcnews.com/id/5334479/ns/health-mental\\_health/t/returning-soldiers-suffers-ptsd/#.V0hgz\\_krJpg](http://www.nbcnews.com/id/5334479/ns/health-mental_health/t/returning-soldiers-suffers-ptsd/#.V0hgz_krJpg).

<sup>25</sup>Julianne C. Hellmuth et al., *Modeling PTSD Symptom Clusters, Alcohol Misuse, Anger, and Depression as They Relate to Aggression and Suicidality in Returning U.S. Veterans*, 25 J. TRAUMA STRESS 527 (2012).

<sup>26</sup>See Weston, *supra* n.21.

<sup>27</sup>Allison K. Holmes et al., *When a Parent Is Injured or Killed in Combat*, 23 FUTURE OF CHILDREN 143 (2013).

<sup>28</sup>SCHALLER, *supra* n.19, at 17-18.

<sup>29</sup>*Id.* at 28.

<sup>30</sup>Val Willingham, *Study: Rates of Many Mental Health Disorders Much Higher in Soldiers Than in Civilians*, CNN (Mar. 4, 2014, 1:45 PM), [www.cnn.com/2014/03/03/health/jama-military-mental-health](http://www.cnn.com/2014/03/03/health/jama-military-mental-health).

<sup>31</sup>SCHALLER, *supra* n.19, at 17.

<sup>32</sup>Marilyn Lash, *TBI and PTSD: Navigating the Perfect Storm*, 1 BRAIN INJURY JOURNEY MAG. (2014).

<sup>33</sup>Holmes, *supra* n.27, at 147.

<sup>34</sup>Maxine L. Reger et al., *Concussive Brain Injury Enhances Fear Learning and Excitatory Processes in the Amygdala*, 71 BIOLOGICAL PSYCHIATRY 335 (2012).

<sup>35</sup>SCHALLER, *supra* n.19, at 10-11, 51, 150.

<sup>36</sup>Deirdre MacManus et al., *Aggressive and Violent Behavior Among Military Personnel Deployed to Iraq and Afghanistan: Prevalence and Link With Deployment and Combat Exposure*, 37 EPIDEMIOLOGIC REVS. 196 (2015).

<sup>37</sup>Hellmuth, *supra* n.25.

<sup>38</sup>Annette N. Farmer et al., *Enduring Hope and Support: Helping Family Court Professionals Incorporate Programs to Build Resilient Families*, 52 FAM. CT. REV. 425, 433 (2014).

<sup>39</sup>Robert T. Russell, *Veterans Treatment Court: A Proactive Approach*, 35 NEW ENG. J. ON CRIM. & CIV. CONFINEMENT 357 (2009).

<sup>40</sup>Holmes, *supra* n.27.

<sup>41</sup>Melody Finnemore, *Firestorm on the Horizon: Specialists Say Legal Professionals Ill-Prepared to Help Growing Population of U.S. Military Members With Post-Traumatic Stress Disorder*, 70 OR. ST. B. BULL. 19, 22-23 (2010).

<sup>42</sup>Evan R. Seamone, *Educating Family Court Judges on the Front Lines of Combat Readjustment: Toward the Formulation and Delivery of a Core Curriculum on Military Family Issues*, 52 FAM. CT. REV. 458, 464-66 (2014).

<sup>43</sup>Holmes, *supra* n.27, at 150.

<sup>44</sup>Linda J. Fresneda, *The Aftermath of International Conflicts: Veterans Domestic Violence Cases and Veterans Treatment Courts*, 37 NOVA L. REV. 631, 639 (2013).

<sup>45</sup>Jason M. Fritz, Comment, *Unintended Consequences: Why Congress Tossed the Military-Family Out of the Frying Pan and Into the Fire When It Enacted the Lautenberg Amendment to the Gun Control Act of 1968*, 2004 WIS. L. REV. 157, 160 (2004); 18 U.S.C.A. §§ 922(g)(8)(B)(i), (g)(9) (West 2015).

<sup>46</sup>Fresneda, *supra* n.44, at 636.

<sup>47</sup>Glenna Tinney & April A. Gerlock, *Intimate Partner Violence, Military Personnel, Veterans, and Their Families*, 52 FAM. CT.

REV. 400, 407 (2014).

<sup>48</sup>Harold Kudler & Rebecca I. Porter, *Building Communities for Military Children and Families*, 23 FUTURE OF CHILDREN 163, 167 (2013).

<sup>49</sup>Department of Defense Task Force on Mental Health, *An Achievable Vision* (June 2007), [justiceforvets.org/sites/default/files/files/Dept%20of%20Defense,%20mental%20health%20report.pdf](http://justiceforvets.org/sites/default/files/files/Dept%20of%20Defense,%20mental%20health%20report.pdf).

<sup>50</sup>Greg Berman & John Feinblatt, *Problem-Solving Courts: A Brief Primer*, 23 LAW & POL'Y 125, 126 (2001).

<sup>51</sup>SCHALLER, *supra* n.19, at 21-22.

<sup>52</sup>Maureen K. Collins, Comment, *Nicholson v. Williams: Who is Failing to Protect Whom? Collaborating the Agendas of Child Welfare Agencies and Domestic Violence Services to Better Protect and Support Battered Mothers and Their Children*, 38 NEW ENG. L. REV. 725, 749 (2004).

<sup>53</sup>Holmes, *supra* n.22, at 150.

<sup>54</sup>Victim participation in domestic violence situations has a history of its own, a sore point for those who fought so hard to achieve the domestic violence laws we now have. During the 1990s, some prosecutors mandated victim participation in domestic violence cases, requiring the victim to take part in the decision whether to file criminal charges. Critics did not countenance a victim's being asked to bear such a burden, arguing the state should pursue domestic violence cases regardless of the victim's wishes. Cheryl Hanna, *No Right to Choose: Mandated Victim Participation in Domestic Violence Prosecutions*, 109 HARV. L. REV. 1849, 1850-51 (1996). At the time victim participation was being discussed, it was in the context of transitioning thoughts about domestic violence from a model of "it's a family problem, and it doesn't belong in the courts" to "victims of domestic violence need to be protected by the justice system." Prosecutors did not want to unnecessarily interfere with family dynamics. Eventually, the approach was moved toward a belief that it was only the powers within the criminal justice system that could control men who beat women, largely because battering was seen as a form of structurally entrenched misogyny. Tineke Ritmeester & Ellen Pence, *A Cynical Twist of Fate: How Processes of Ruling in the Criminal Justice System and the Social Sciences Impede Justice for Battered Women*, 2 S. CAL. REV. L. & WOMEN'S STUD. 255, 257 (1992). Many jurisdictions filed cases no matter the victim's position, adopting "no-drop" policies to counteract prosecutors' long-standing inaction. Angela Corsilles, Note, *No-Drop Policies in the Prosecution of Domestic Violence Cases: Guarantee to Action or Dangerous Solution?*, 63 FORDHAM L. REV. 853, 858 (1994).

<sup>55</sup>Amanda Dekki, Note, *Punishment or Rehabilitation? The Case for State-Mandated Guidelines for Batterer Intervention Programs in Domestic Violence Cases*, 18 J. CIVIL RTS. & ECON. DEV. 549, n.152 (2004).

<sup>56</sup>*Military Families*, U.S. DEPT. OF VETERANS AFFAIRS, OFFICE OF PUBLIC AFFAIRS, <http://www.va.gov/opa/militaryfamilies.asp> (last visited Dec. 5, 2016).

<sup>57</sup>See Pamela Kravetz, *Way Off Base: Against Intimate Partner Violence Cases in Veterans Treatment Courts*, 4 VETERANS L. REV. 162, 163-164 (2012).

<sup>58</sup>SCHALLER, *supra* n.19, at 18, 162-64.