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Entrenched in Legal Issues at Home: Why Our Veterans Need More Local Support

by Shaina Simone Kalanges, Esq.

“I joined the United States Marine Corps (USMC) the day after 9/11 because I wanted to help out and make a difference,” said Mike Russo, a veteran that went from making about $100,000 a year with a mechanic’s garage, a wife, and two children at home, to a single man on disability living with his father (who is also a veteran on disability), with no driver’s license. Russo saw his life unravel after a mishandled local ordinance violation resulted in a series of legal issues, including criminal charges across two Michigan municipalities.

After returning from Iraq, Russo started his own racecar business in which he designed and manufactured race cars and provided mechanical services out of his home garage. Russo also started a smaller business raising rabbits to sell to local pet stores in order to reconnect with his daughters. However, the city’s zoning regulations for Russo’s home created problems for him and his two businesses. In 2007, approximately eighteen months after Russo returned from Iraq, Russo’s legal problems began when the city sought to enforce the zoning regulations that prohibited him from operating his racecar business out of his home.

In responding to the City’s actions and enforcement of the zoning regulations, Russo became frustrated and disillusioned with the process. Russo felt powerless to defend his livelihood and disrespected as a veteran, first at a meeting with a municipality official and then at a court hearing. Russo’s legal problems soon escalated as after the first meeting and court hearing Russo wrote a controversial letter to the judge handling the zoning regulation violation.

In hindsight, it is easy to see that Russo’s veteran status and post-traumatic stress disorder (“PTSD”) contributed to the sense of disconnect and frustration that he was experiencing, which caused him to respond irrationally. As John Joyce, J.D., working with the team of attorneys representing Russo, explains “[Russo] would not admit to you or anyone that his PTSD was kicking in, and that caused him to write this letter to the judge which probably made him sound crazy. But, really it was his response as a Marine, and the whole thing spiraled out of control after that...he lost everything.”

After Russo sent the letter to the Judge a warrant was issued for his arrest and police went to his home to affect the arrest. Due to concerns of violence and weapons (Russo taught gun safety and was known to have multiple weapons at his home), the police requested backup and a SWAT team to assist in his arrest. When Russo was approached by police he candidly advised that he lawfully had a gun holstered on his hip and put his hands up to surrender. Despite this, force was used to effectuate the arrest and as a result Russo suffered a spinal injury.

After his arrest, Russo was unable to afford his own attorney and struggled in navigating the legal system and judiciary. Part of Russo’s difficulty in navigating the legal system was his inability to relate and communicate due to PTSD. As Russo explains, “It was like no matter what I did, my appointed counsel, the police, the judges...everyone around me just wouldn’t let me experience normal human emotions and vent my frustrations, they all thought I was nuts.” Joyce can relate to Russo as he is not only a USMC veteran, but a Senior Marine that trained Russo for about two years and has personally dealt with combat related PTSD. Joyce explains that Russo’s story is not as unusual as other veterans who return home with PTSD or other combat related stress disorders. As Joyce explained, many veterans often lose their lives when they return because they try to reimagine the life they once had without recognizing or acknowledging the impact of their physical and/or mental disorders. Indeed, Russo himself did not believe that he was suffering from PTSD, that he should be able to suffer from PTSD or that he should seek help for PTSD. Russo did not seek help because as he explains, “I know a person that lost his testicles, another a leg, and I thought these benefits were reserved for them, for people who really needed them.” Russo further explains that it “kills [him] to have to be on disability, to ask for these things, because [he] was a self-sustaining individual.”

Russo’s feelings of helplessness, depression and frustration with the
legal system and government were further compounded after he was released from his first arrest. While in jail the city had seized thousands of dollars of property, including the rabbits that he had been raising with his daughters. Upon being released, Russo sought to get his property worth over $125,000 returned after it was seized by the city. However, he was told in order to get just the rabbits, he would have to pay $3,000, a sum that he could not afford. This bureaucracy was difficult for Russo to understand and accept, especially after being in Iraq and having the mission “to bring law to a lawless society” in which he was a part of the effort that allowed citizens of Iraq to vote for the first time.

Russo’s frustrations and resulting depression and feelings of helplessness led to further legal problems when he failed to appear at his trial in August 2015. As Russo explains, “at that point, I had attempted suicide so many times and failed. Even that day, I would have rather sat at home with a gun in my mouth than gone in for my trial, and go back to jail. I didn’t show up because I was at home trying to kill myself.” In fact, Russo’s fear of jail is what led him to accept a felony conviction when he was given two choices by the judge: either “take the felony charge or go sit in jail.”

Russo’s story also raises additional problems with the current legal and criminal justice system. After being arrested, Russo was incarcerated in the county jail. While in the county jail, Russo was unable to get medication that had been prescribed to him through Veterans Affairs (“VA”). Furthermore, it is sometimes difficult for those in authority positions to understand the mindset of veterans who are suffering from PTSD or other stress disorders when faced with incarceration. In Russo’s case he explained that in his mind “they didn’t understand...I couldn’t be there, I couldn’t go back to jail” and that as a marine he was further frustrated as he had been trained to do whatever he could to get out of those types of situations.

The reality that Russo continues to face as a result of his legal problems is not so far-fetched from other veterans that return home and experience disconnect in their local communities. Russo acknowledged this struggle for both women and men in the military, and hopes that his story can encourage legal reform to better assist veterans when they are facing legal issues, whether civil or criminal.

THE PROBLEM: Recognition and Identification of the Psychological Problems that Veterans Face

While the military and VA have made a concerted effort to identify, treat and create awareness of PTSD, traumatic brain injury (TBI), combat related stress disorders and other psychological disorders that can arise from being deployed, there is still a lot that the medical field, legal field and law enforcement field have to learn about what veterans are suffering from, the number of veterans who are affected and the best way to respond.

Recent statistics concerning veterans with PTSD, TBI, combat related stress disorders, moral injury, substance abuse, or violent tendencies from their service are startling. As reported by TIME Magazine, over 200,000 veterans from the Vietnam War still suffer from PTSD, with the number of veterans reporting symptoms of and being diagnosed with PTSD and other psychological disorders from the Vietnam War continue to increase.1 Similarly, in 2008 the FRONTLINE documentary The Wounded Platoon reported that based on research by the RAND Corp. more than 300,000 soldiers that were serving in Iraq and Afghanistan at that time reported suffering from PTSD or major depression.2 In 2014, the RAND Corp. reported that 21,120 veterans identified having a variety of service-related health conditions with some of the most prevalent being post-traumatic stress disorder (PTSD) (77 percent); sleep problems (77 percent); depression (69 percent); anxiety (65 percent); and migraines/other severe headaches (50 percent).3 In 2015, the Congressional Research Service reported that from October 2001 to July 2015 the following military service members had reported PTSD (177,461) and TBI of varying degrees (327,299).4

In reviewing these statistics it is important to remember that in 2014 in the United States there were 21.2 million veterans or approximately 9% of the non-institutional population age 18 and over.5 Of that 21.2 million, 9.4 million served during World War I, World War II, the Korean Conflict and the Vietnam War.6 Of that number 3.4 million served during the Gulf War (August 1990 to August 2001) and 3.2 in the Gulf War II era (September 2001 forward - including Iraq and Afghanistan).7

Not only is it important to look at the statistics, but to try and understand the PTSD and psychological and stress disorders that veterans face. In doing that, it is important to understand that the individuals did not have to be in combat to suffer from such. For example, in the HBO documentary Wartorn, Sergeant Jessica Cavillo, who was not directly involved in combat still suffered from PTSD.8 Cavillo served for the National Guard in Iraq and her duties while serving included loading the dead bodies of soldiers for transport away from the combat zone. Due to the gruesome and brutal nature of the injuries that she saw, she has had difficulties talking, sleeping and eating.9 As explained by one veteran coming home can create a feeling, “like you have a camera in you, it just goes inside, [and] you can't get it out.”10

Returning veterans often report difficulties re-adjusting to life outside of the combat zone in addition to dealing with PTSD, TBI and/or other psychological and stress disorders. For example, many veterans report that
they constantly scan rooftops, store locations and social situations for threats, have an inability to turn their backs while in crowded rooms or have a need for urgency and speed when doing things. Others have stated that they continuously relive situations in which they have seen graphic deaths or injuries while awake and/or through nightmares. Similarly, other veterans have described a compulsion to continuously discuss the grisly details of combat and war zones.

Part of the re-adjustment is civilian life is interacting with others. In discussing this with local veterans, I was told that when they returned from service there was a particular sense of being entitled to immediate recognition of their veteran status. However, when this status is not recognized or disregarded, it can lead to difficulties. As Joyce explained, “when the system doesn’t respond, veterans feel like they have no solution or don’t want to go through the motions to get help.”

To compound this, many veterans have reported using an “us versus them” mentality to cope with their combat or service demands. This “us versus them” mentality does not end when veterans come home and often results in aggravation and frustration leading to further problems, much like what Russo faced in dealing with the zoning issues.

THE MISSION: Increased Legal Assistance in Illinois for Veterans in Need

How can we address these issues? Well first and foremost is ensuring that diagnosis and treatment is being provided through the VA or others in the medical field. Next though is providing support and assistance for veterans when dealing with the legal system and law enforcement.

In Chicago, the Veterans Legal Support System & Clinic (“VLSC”) grew out of an effort by John Marshall Law students to help veterans that had difficulty navigating disability claims before the Veterans Benefits Administration (“VBA”). If a veteran is denied disability benefits, he or she may have to continue to seek medical treatment, or see other doctors within the VA to get a second opinion. Doing so often involves following different administrative rules and procedures, as well as appealing the denial of disability benefits. The VLSC assists veterans by providing advice on how to appeal disability benefit decisions and guide them through the steps. This assistance is vital to veterans who often do not understand that the process takes time and may feel a sense of entitlement from the service that they have provided.

The VLSC not only assists veterans in filing appeals of denials of benefits, but tracks and provides a referral system in which veterans are referred to lawyers that may assist with other legal issues. UTMC veteran, Brian Lambert, who worked at the VLSC for one year before graduating from John Marshall Law School, explained that “mainly the clinic handles appeals which could present difficulties like the doctor looking at the wrong part of the body to come up with a conclusionary diagnosis”, however, "veterans may come in and possibly have five to six legal issues". The referral system puts veterans in touch with attorneys that are often willing to take on legal issues that the clinic does not on a pro bono basis.

Similar to the services offered by John Marshall Law School, the Northern Illinois University College of Law (“NIU College of Law”) and Southern Illinois University College of Law (“SIU College of Law”) have clinical programs that provide assistance to veterans. The NIU College of Law has a clinical program located at the Hesed House in Aurora, which is the second largest homeless shelter in the state of Illinois. NIU College of Law’s clinical program is aimed at resolving legal issues impacting people’s health, and specifically includes providing assistance to veterans. The SIU College of Law’s Veteran’s Legal Assistance Program, much like the John Marshall Law School, provides pro bono legal services to Illinois veterans appealing disability claims.

The Illinois State Bar Association (“ISBA”), VLSC, NIU College of Law and SIU College of Law all recognize the barriers posed to veterans seeking access to care and legal assistance in rural communities and are advocating for more veterans clinics in rural areas. See, e.g., Brian Clauss, JD, Executive Director, VLSC, Conference at Access to Justice for Rural Veterans: Specific Challenges to Rural Veterans (Jun. 26, 2015).

Judges and attorneys have also taken notice of the problems that face veterans. In Cook County, a group of judges and attorneys came together to organize a Veterans Court that is specifically geared towards addressing veterans charged with non-violent crimes, mostly drug offenses, that may be directly related to a lack of treatment or proper diagnosis of PTSD and related disorders. Veterans who participate in Veterans Court do not receive any special treatment. Rather, the court works with prosecutors, public defenders, social service and clinical organizations, and veterans to determine the needs of the veterans and offer assistance for drug treatment, housing, health care and job training. Much like drug courts, in Veterans Court veterans must comply with strict guidelines in order to graduate from Veterans Court. If the veterans complete the intensive program with success and graduate, their criminal charges are dropped. Lambert, who attended a graduation ceremony in Veterans Court, witnessed a significant change in the morale of veterans that were offered an option to enter into a treatment program after receiving drug charges.

While positive steps have been taken in addressing these issues, much like many other issues, more can still be done, especially at the local level. Director of Administration Patrick Gengler of the Kane County Sheriff’s Office highlighted the need for more
education, legal intervention and financial assistance at a local level to prevent veterans from having problems at home or negative interactions with police that lead to criminal charges. Director Gengler explained that when the Sheriff’s Office is called, generally a veteran is already in the midst of a crisis or psychological breakdown, which is much harder to maintain and confront. Additionally, he explained that “all we know is what we hear on the call.” As such, police may respond first to the imminent threat, without knowledge that their actions may escalate the problems because the individual is a veteran with PTSD or another psychological disorder. Director Gengler further explained that while “after some investigation we realize the person is a veteran and PTSD may be an issue,” their first priority may still be to minimize the immediate threat to the community.

One of the other issues is that the psychological disorders that veterans face may be experienced in tandem, with any number of symptoms that may be triggered at any time. As Director Gengler pointed out, the unknown and often untreated variety of risk factors caused by veterans and psychological disorders they may suffer from make it difficult for law enforcement to do anything more than try to contain a crisis. Indeed, the irrational behavior of the veteran or the crisis situation itself may lead to a need to call for backup that may appear excessive to a veteran, but necessary to local law enforcement.

A resource that many sheriff and police departments have that they can tap to address these issues is already in place – veterans that they employ. Officer Lee, a police officer working in McHenry County is an Army veteran who was deployed in Iraq at the start of the invasion. As he explains, “I was a nineteen year old kid that had never left Crystal Lake, Illinois, and I was sent overseas to invade a foreign country.” One way that Officer Lee’s police department has been able to positively address calls involving veterans is to have police officers who are veterans respond to those calls, especially when there is a concern of violence. By having a police officer who is a veteran respond, the responding officer has a better chance of de-escalating a situation by showing a relatedness to the veteran, mitigating any “us versus them” thoughts. As Officer Lee explains, “it’s about vets helping vets.”

That being said, Officer Lee states that in each situation “our goal is to make it home safely to our families at the end of the night . . . veteran or not, if we feel any sort of threat, there’s going to be enough back up to make sure the situation is the safest it can be for us.” This can create a harsh dividing line between a veteran’s feeling of being misunderstood and experiencing a crisis, and the need for local law enforcement to do their jobs and make it home at the end of their shifts. Moreover, having an officer who is a veteran does not always help resolve the problem. In explaining this, Director Gengler told the story of an officer who was a veteran responding to a call involving a veteran in crisis. The problem was that the officer was not able to relate to the veteran because of differences in the time, place and manner of service between the officer and the individual, making it difficult for the officer to relate to the subject of the call and diffuse the situation.

CONCLUSION

In the end, it ultimately comes to increasing the amount of education to veterans of these problems, making preventative care available – through the diagnosis and treatment of these psychological disorders, and making resources and assistance available to veterans. Local counseling, guardianship programs involving the family members and spouses of veterans, referral programs for legal and healthcare professionals, and education via law school clinics or courses can provide assistance and insight into veterans’ legal issues. While Cook County has a Veterans Court, not all counties do. As can be seen by Cook County’s implementation of the Veterans Court, such a court can help effectively mitigating and resolving criminal charges that veterans’ face, which may be in part due to the psychological disorders that they suffer from during and after their military service. Increasing the type and availability of legal clinical programs and organizations that provide legal advice and pro bono representation to veterans in appealing disability denials, upgrading discharge levels to make more benefits available and addressing civil and criminal legal issues is important in expanding coverage to those in rural areas and not just larger cities.

When asked if such a system in place locally processing Russo’s initial misdemeanor dispute would have made a difference he said, “Absolutely. I think the police would have had better information, even in the instance of my arrest and it would not have been so harsh (referring to actions and physical force used to arrest him). I could have talked with someone, a lawyer, a veteran, an officer, and handled the situation properly to show that I was not trying to hurt anyone. I just wanted to keep running my business, and if my case of guns escalated the need for reinforcement, I would have put them in the temporary custody of a close family member, colleague, or friend until things were resolved.”

In the end, Russo hopes to restore what he lost, but rather than rebuild a home and family, he hopes to build a place where local veterans can seek sanctuary. On a final note Russo concluded, “there’s disconnect apparent in every community, and veterans are getting treated like they’re not human. I hope I can keep blogging, keep speaking, and keep telling my story so that more people can help or understand. I want to keep this conversation going, because women and men are coming home with nowhere to go, and losing everything.”
Thankfully in Illinois, more forums specifically to assist veterans are emerging, including those through the efforts of members of the Kane County Bar Association and law enforcement agencies in Kane County and surrounding counties who are educating others on what veterans face and ways to assist them.

A special thank you is necessary to all of the veterans who contributed to this brief to inspire our legal community to take action on your behalves. Everyone becomes a casualty when they sacrifice a part of themselves to serve in a warzone, and we hope to spread our message across local forums to prevent further losses, foster community, and support our troops, both abroad and at home.

For information on Veterans Service Organizations which exist to assist veterans and service members free of charge visit: http://www.dvnf.org/veterans-programs/veterans


6 Id.

7 Id.

8 HBO, Wartorn, November 11, 2010.

9 Id.

10 Id.

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