



Melissa A. Gertz, Esq.* †
Executive Director / President

C. Patterson McKenna, Esq.*
Attorney-At-Law

* Admitted to NJ
† Admitted to PA

Filling the Gap: New Jersey's New Voice for Veterans

Many veterans face significant challenges in transitioning to civilian life whether they have just returned from service in Iraq or Afghanistan or have been back from Vietnam for 30 years or more. David Addlestone and Arthur S. Blake, Jr., MD, writing in *American Veterans and Servicemembers Survival Guide*, report that the Department of Veterans Affairs ("VA") "found that at least 25% of Vietnam vets have readjustment problems related to their military experience; similar percentages are appearing in studies of soldiers returning from Iraq and Afghanistan."ⁱ A 2008 study by the RAND Corporation reached a similar conclusion, estimating that 20% of the 1.6 million soldiers who have served in Iraq and Afghanistan since October 2001 show signs of post-traumatic stress disorder ("PTSD") or major depression.ⁱⁱ A study published in the *Journal of the American Medical Association* found that 35% of Iraq veterans accessed mental health care services during their first year at home, necessitating an expansion of the VA Vet Center program into 23 new communities.¹

The psychological loss to U.S. troops deployed for Operations Enduring Freedom and Iraqi Freedom (OEF/OIF) may be disproportionately high compared with physical injuries. PTSD may occur when the normal healing process of adjusting to terrible experiences becomes disrupted, and the normal stress reaction deteriorates into a stress disorder. Unlike veterans of the world wars, whose return home from the battlefield² usually involved a significant period of transition in the company of other veterans, our modern-day wounded warriors often come home quickly, and alone. Ironically, this quick return home may disrupt the psychological healing process. And because of such practices as the Individual Ready Reserve, an Army program that can deploy men and women on an as-needed basis, veterans suffering from PTSD are sometimes sent back for another tour of duty. As one New Jersey native who served in the Army's 173rd Airborne Division explained, his worst memory was not even combat related. He and his buddy Sgt. Coleman Bean were inside a safe house when they heard screaming outside.

¹ Vet Centers are walk-in clinics funded by the VA that were created to help Vietnam War veterans readjust to society. A 2007 VA survey found that the number of combat veterans visiting the center had more than doubled since 2004.

² This is not to say that only combat veterans experience potentially debilitating stress; however, many of the studies referenced here focus on veterans who have seen combat.

They went outside and saw a small bus engulfed in flames. Civilians were traveling on the bus with 5-gallon containers of gasoline and something ignited the fuel. Says this veteran, "The bus was rolling down the street. The people were screaming and there was nothing we could do. There were about 25, 30 people burned to death right in front of us. It was the worst thing I've ever seen." Sgt. Bean came home from his first deployment and was diagnosed with PTSD. Despite this he was redeployed and sent back to Northern Iraq. After he returned home the second time, still eligible for yet another deployment, Sgt. Bean committed suicide.

The range of symptoms of PTSD includes anxiety, anger, flashbacks, sleeplessness, nightmares, and depression. The symptoms may become so intrusive that they render the individual unable to function in many areas of life. Those who have studied the problem of PTSD and depression among returning veterans recognize that work-related difficulties are likely to be a major focus among this group.ⁱⁱⁱ One veteran, a 22-year-old Army specialist who had been home from Iraq for nearly six months, described the impact of these "invisible wounds" this way:

Brent Bricklin's four-year enlistment is up in June. He plans on marrying his girlfriend in Wisconsin... and then he wants to go to college to become a history teacher. Imagining this, he expressed the first bit of military pride I had heard from him. "I can't wait for the day I say: 'O.K. class, close your books. Today we're going to do Operation Iraqi Freedom. This here is my Purple Heart; here's the Iraqi flag I got off a rooftop in Karbala; these are the pictures from Mosul.'" But while the dream of this moment kept him going, it also – he finally admitted – prevented him from seeking psychological help for the grief and anger he felt in the wake of his time in Iraq. "I can't have any of that on my record," Bricklin told me.... "I mean, who's going to hire a teacher who has flashbacks?"^{iv}

Part-time military employees or reservists, who comprise a significant proportion of U.S. troops in Iraq, face unique post-deployment employment challenges. Some supportive employers will supplement reservists' reduced military salaries for longer than required; the majority does not, leaving many returning soldiers in dire financial situations. The financial difficulties of veterans struggling with PTSD have received far less attention than those experienced by service members who become substance abusers or perpetrators of domestic violence, perhaps because it may take years for PTSD to manifest. The VA, members of Congress, researchers, and a host of grassroots veterans organizations have begun to tackle the societal implications of untreated PTSD.^v

Blast-induced neurotrauma, or brain injuries sustained as a result of exposure to the force of an explosion without a direct strike to the head, is such a common peril for soldiers in Iraq and Afghanistan due to the prolific use of explosive weaponry that traumatic brain injury ("TBI") is now being referred to as the "signature" wound of the war.^{vi} According to an Institute of Medicine report released in December of 2008, these military personnel

“face an increased risk for developing long-term health problems”.^{vii} The Department of Defense estimates that more than 5,500 troops have suffered from TBI. However, these injuries may be under-diagnosed due to lack of research on blast injury.

Less research has been done on employment challenges among veterans with TBI, but the Department of Veterans Affairs recently acknowledged that those with moderate to severe TBI “can have persistent difficulties in executive function, sensory difficulties, and emotional disturbances. Common symptoms include headaches, repeated nausea or vomiting, seizures, sleep disturbances, slurred speech, balance problems, visual disturbance, weakness, numbness, and loss of coordination....these problems... can... result in permanent difficulties with memory, reasoning, emotion, and expression making it difficult to hold steady employment....”^{viii} The Institute of Medicine report raised a red flag for this population as well, saying that conditions such as dementia, memory loss, aggression, and depression may be associated with TBI.

Both groups of veterans – those with PTSD and those with TBI– are at risk of being unable to sustain gainful employment. Many will need disability benefits to meet their basic needs. There are two avenues for veterans who are suffering from disabling conditions like PTSD and TBI to obtain benefits. Social Security provides benefits to disabled individuals who are unable to perform substantial gainful activity and whose disabilities are expected to last 12 months or more, or result in death. The Social Security Administration (“SSA”) now has an expedited procedure for OEF/OIF vets. But Social Security disability is an “all or nothing” proposition – either the individual is disabled or s/he is not. The amount of monthly benefits depends on the veteran’s work history. Veterans’ benefits are the other option for disabled service members. Unlike Social Security disability VA disability compensation is based on a rating system which assigns a percentage, from 10% to 100%, to the veteran’s disability. The rating determines the amount of monthly compensation. The two bureaucracies are complex and difficult to navigate, and each method of claims adjudication has its advantages and disadvantages. The VA disability evaluation system is currently in a state of flux as Congress and the new Administration try to streamline and correct deficiencies in the system. It is going to be more important than ever for veterans to have access to legal representation.

In June 2009, more than 3,000 New Jersey Army National Guard members will be coming home from Iraq. Those who have worked as veterans’ advocates at the grassroots level warn that New Jersey is not prepared for the numbers of veterans who will require assistance with their entitlements.³ Veterans groups estimate that 20 percent of returning service members eventually will enter the benefits system. And, while there

³ A recent newspaper editorial cited several hurdles that these returning veterans are likely to face, including complete absence of veterans’ affairs offices in 12 of New Jersey’s 21 counties, inability of local charities to help due to inexperience and cutbacks, a backlog of over 650,000 disability claims at the VA, and lengthy claims processing time. *The Star-Ledger*, 2009. We owe it to New Jersey’s Iraq veterans to get ready for their return. March 3.

are some attorneys who offer pro bono services to veterans,⁴ there is no other nonprofit law firm in the state that focuses on veterans' disability claims. The staff of the Community Justice Center ("CJC") has been working tirelessly on spreading the word throughout Mercer, Burlington, Hunterdon, and Middlesex Counties that the CJC is here and ready to help. Assembly Majority Leader Bonnie Watson Coleman recently endorsed the CJC, and Justices Virginia A. Long and Roberto A. Rivera-Soto of the New Jersey Supreme Court also have expressed their support. With backing from the judiciary, legislature, service providers, and stakeholders, the CJC is well-positioned to help New Jersey's veterans access entitlements through SSA and the VA.

ⁱ Veterans for America, *The American Veterans and Servicemembers Survival Guide*. Published online at www.veteransforamerica.org, 2008.

ⁱⁱ Tanielian, Terri L. and Jaycox, Lisa H. (eds.) *Invisible wounds of war: psychological and cognitive injuries, their consequences, and services to assist recovery*. Santa Monica: RAND Corporation, 2008.

ⁱⁱⁱ Department of Veterans Affairs and the National Center for PTSD. *Iraq War Clinicians Guide*. 2d ed. Washington, D.C.: Department of Veterans Affairs, 2004.

^{iv} Sara Corbett, "The Permanent Scars of Iraq", New York Times, February 15, 2004, Sunday magazine section.

^v See, for example, "Family Safety: A Significant Concern for Returning Veterans and Their Families", www.witnessjustice.org/advocacysta/briefing_veterans.cfm; Sherman, M.D. 2008. Trauma and the Military Family: Responses, Resources, and Opportunities for Growth. *Social Work Today*; and the websites of grassroots organizations such as IVAW and Save Our Vets.

^{vi} National Academies Press. *Gulf War and Health: Long-Term Consequences of TBI*. Washington, D.C.: National Academies Press, 2008.

^{vii} *Ibid.*

^{viii} Department of Veterans Affairs, *Office of Research and Development Program Announcement Traumatic Brain Injury*. Washington, D.D.: 2008.

⁴ The New Jersey State Bar Association's Military Legal Assistance Program is a prominent example. Their services are currently limited to veterans who served since September 11, 2001, and do not include assistance with claims before the VA for compensation, pension or survivor's benefits.