COVERAGE FOR VETERANS WITH POST-TRAUMATIC STRESS DISORDER: A SURVEY THROUGH THE WARS

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"No matter how the business of war is adorned by parades, uniforms, and literary glorification of the warrior's courage, and however it is burdened by administration and logistics, the soldier's real work is in killing. The soldier's privilege to kill is unlike anything most other individuals have ever experienced, and the soldier who kills is permanently changed, fixed to the death he has made."[1]

From its first remnants in Ancient Greece, up through the initial wave of "shell shocked" American soldiers in World War I, all the way to its present day status in the midst of the Middle East conflict, Post-Traumatic Stress Disorder (PTSD) is a disease that has continued to evolve, both in its treatments as well as in the societal stigma attached to it. This comment traces the development of PTSD within the context of our nation's health care treatment and coverage for veterans battling the disorder. The comment documents recent federal legislation which, combined with the ongoing efforts of the Department of Veterans Affairs (DVA), should allow for significant improvements in the treatment and coverage of veterans with PTSD. However, despite the fact that our government has seemingly acknowledged the importance of dealing with the PTSD issue, many veterans are still left without adequate coverage for their mental health care. With troops still returning home from Afghanistan and others just now beginning to see the first signs of PTSD, the Department of Veterans Affairs must strive for even greater health care coverage for its veterans.

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I. INTRODUCTION

Since the time of the ancient Greeks, soldiers have encountered significant psychological trauma as a result of experiencing shocking

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[1] ILONA MEAGHER, MOVING A NATION TO CARE 83 (2007) (citing THEODORE NADELSON, TRAINED TO KILL: SOLDIERS AT WAR 37 (2005)).

events during war.[2] The Greek historian Herodotus described an Athenian warrior who, after witnessing the slaughter of a fellow soldier, became "blind" during the Battle of Marathon in 490 B.C. although the soldier was "wounded in no part of his body."[3] Hundreds of years later, a Swiss physician, Johannes Hofer, would name the illness "nostalgia," symptoms of which included "melancholy, incessant thinking of home, disturbed sleep or insomnia, weakness, loss of appetite, anxiety, cardiac palpitations, stupor and fever."[4] During the Napoleonic era, Napoleon's Chief Surgeon, Dominique Jean Larrey, focused on both biological catalysts and social factors that influenced the illness in prescribing regular exercise, music, and "useful instruction" as the cure for Nostalgia.[5] The disorder has been given names such as "soldier's heart", "battle fatigue", and "shell shock."[6] Today, however, we call this disease Post-Traumatic Stress Disorder, or PTSD.[7]

Studies conducted since World War II have shown that only two percent of those serving in the military have a "natural-born killer" predisposition.[8] The remaining ninety-eight percent of men must be trained and taught how to pull a trigger to kill.[9] While the military training tactics

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[2] Madeleine Baran, *Timeline: Mental Illness and War Through History*, MINN. PUB. RADIO NEWS (Feb. 2010), http://minnesota.publicradio.org/projects/2010/02/beyond-deployment/ptsd-timeline/index.shtml.

[3] MEAGHER, *supra* note 1, at 13.

[4] *Id.* at 14-15 (citing Major Stephane Grenier, *Operational Stress Injuries (OSI): A New Way to Look at an Old Problem*, VETERANS AFF. CAN.: OPERATIONAL STRESS INJ. SOC. SUPPORT (OSISS) PROGRAM, June 12, 2005, http://www.osiss.ca/pdfs/english/ANewWayToLookAtAnOldProblem_March2002_e.pdf).

[5] MEAGHER, *supra* note 1, at 14 (citing Franklin D. Jones, *Psychiatric Lessons of War*, *in* WAR PSYCHIATRY: THE TEXTBOOK OF MILITARY MEDICINE 6 (Brigadier General Russ Zajtchuk, M.C., U.S. Army ed.,1995)). *See also* Mylea Charvat, Presentation: History of Post-traumatic Stress Disorder in Combat, VETERANS AFF. WAR RELATED ILLNESS & INJ. STUDY CTR., (Sept. 14-15, 2010) *available at* http://www.warrelatedillness.va.gov/WARRELATEDILLNESS/education/conferences/2010-sept/slides/2010_09_14_CharvatM-History-of-PTSD-in-Combat.ppt.

[6] Baran, *supra* note 2.

[7] AM. PSYCHIATRIC ASS'N, DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS IV-TR 463 (4th ed. 2000) [hereinafter DSM-IV-TR].

[8] MEAGHER, *supra* note 1, at 84 (citing CHRIS HEDGES, WHAT EVERY PERSON SHOULD KNOW ABOUT WAR 75 (2003).

[9] MEAGHER, *supra* note 1, at 84.

used to teach American soldiers how to kill are extremely effective,[10] the military does not prepare its soldiers for the long-term psychological trauma they may experience as a result.[11] Thus, the ninety-eight percent without the "natural-born killer" instinct experience trauma regardless of their training and probably do so at a much higher rate than the two percent that needed no conditioning.

Cultures have attempted to treat and rehabilitate veterans for centuries.[12] Different societies throughout history have participated in "cleansing rituals" or "purification rites" for their soldiers in the hopes of allowing for a more seamless transition back into their community.[13] Since its modern inception, government-sponsored treatment and healthcare coverage of these soldiers with PTSD has been a political and controversial issue. The United States' attempt to care for its soldiers can be traced back to the American Colonies where the English enacted a law in 1636 that provided pensions for injured veterans.[14] In 1812, the Naval Home in Philadelphia was built and was the first national effort to provide medical treatment for disabled soldiers in need.[15]

More recently in the United States, however, insurance coverage in the form of military benefits from the government has become the main source of financial, psychological, and medical support for soldiers and veterans. This support, however, is severely limited. Thousands of soldiers have been unable to secure assistance for their mental health and today, thousands of veterans are still fighting for health care.[16] As a result of this insufficient healthcare coverage, inadequate access to resources, and the

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[10] *See id.* (citing Jeff Tietz, *The Killing Factory*, ROLLING STONE MAG. 54, Apr. 20, 2006, detailing exposé on the U.S. Army's "Total Control" program which had been used to desensitize its soldiers from the trauma and emotions attached to killing or attacking a human being. "The Army turns out 20,000 infantrymen a year; no other institution in history has trained so many to kill so effectively in such a short time. The number of soldiers who fail to return fire has fallen from seventy-five percent to nearly zero.").

[11] MEAGHER, *supra* note 1, at 85-86.

[12] *Id.* at 122.

[13] *Id.*

[14] U.S. DEP'T OF VETERANS AFFAIRS: OFFICE OF PUB. & INTERGOVERNMENTAL AFFAIRS, VA HISTORY IN BRIEF 3 (2008), http://www.va .gov/opa/publications/ archives/docs/history_in_brief.pdf.

[15] *See id.*

[16] *See* Melissa Suran, *Veterans Still Fighting – For Health Care*, MEDILL REPORTS WASH. (Aug. 26, 2009), http://news.medill.northwestern.edu/ washington/news.aspx?id=139097.

stigma that is still associated with mental health illnesses like PTSD, veterans resort to drugs, are unable to secure employment, become homeless, and at times, even resort to violence.[17] Although the number and quality of available resources and funding have certainly increased over the past century,[18] there is still a long way to go to secure the support and coverage veterans need to resume civilian lifestyles.

This comment seeks to address the development of PTSD by examining its presence in the major wars of the twentieth and twenty-first centuries. Society's views concerning each war and the stigma surrounding mental illness in World War I, World War II, Vietnam and the current conflicts in the Middle East affected not only how the returning soldiers manifested the illness itself, but also the ways in which veterans were provided for in terms of mental health care insurance coverage and treatment. By examining and analyzing society's definition of mental health in conjunction with America's sentiments concerning the wars, it will become apparent that PTSD has manifested itself in different ways in each war which, in turn, affected government coverage for PTSD coverage and treatment.

II. MENTAL HEALTH BACKGROUND

A. WHAT IS MENTAL DISORDER?

By the year 1840, there were only eight "asylums for the insane" located within the United States.[19] Advocates such as Dorothea Dix spearheaded movements for those with mental illnesses, which, in 1840, resulted in the transfer of the mentally ill from jails and prison-like asylums for the insane to one of the thirty-two new mental hospitals that

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[17] *See generally* RISDON N. SLATE & W. WESLEY JOHNSON, THE CRIMINALIZATION OF MENTAL ILLNESS: CRISIS & OPPORTUNITY FOR THE JUSTICE SYSTEM (2008); CTR. FOR MILITARY HEALTH POLICY RESEARCH, RAND CORP., INVISIBLE WOUNDS OF WAR: PSYCHOLOGICAL AND COGNITIVE INJURIES, THEIR CONSEQUENCES, AND SERVICES TO ASSIST RECOVERY (Terri Tanielian & Lisa H. Jaycox eds., 2008) [hereinafter INVISIBLE WOUNDS OF WAR].

[18] *See* DEP'T OF VETERANS AFFAIRS, VA HISTORY IN BRIEF, *supra* note 14, at 32-36.

[19] *Important Events in NIMH History*, NAT'L INST. OF MENTAL HEALTH, http://www.nih.gov/about/almanac/archive/1998/organization/nimh/history.html (last visited Mar. 1, 2013).

Dix had advocated for.[20] The shift in terminology from "asylums for the insane" to "mental hospitals" is itself indicative of society's—albeit slowly—increasing understanding of mental health. By 1940, the U.S. Public Health Service finally established what would later be called the Division of Mental Hygiene, in the hopes of merging research on substance abuse and mental diseases.[21] Although steps have certainly been taken in the last century to assist those with mental disorders and to de-stigmatize the world of mental health, the stigma that still exists today negatively affects not only those with mental illnesses but those involved in mental health care as well.[22]

The American Psychiatric Association's Fourth Revised Edition of the Diagnostic and Statistical Manual of Mental Disorders, or the DSM-IV-TR, defines mental disorder as a

> [C]linically significant behavioral or psychological syndrome or pattern that occurs in an individual and that is associated with present distress (e.g., a painful symptom) or disability (i.e., impairment in one of more important areas of functioning) or with a significantly increased risk of suffering death, pain, disability, or an important loss of freedom.[23]

Although the DSM's definition is certainly instructive in many instances, what actually constitutes a "mental disorder" is still vague at best. The boundaries differentiating mental disorders from physical illness are slowly beginning to erode as we gain more understanding of how the brain and the body are connected to one another. The authors of the DSM-IV-TR state that the separation of the two—physical illnesses and mental disorders—creates a "reductionistic anachronism of mind/body dualism…there is much 'physical' in 'mental' disorders and much 'mental' in 'physical' disorders."[24] The authors further admit that although the definition persists in the most current edition of the DSM, "no definition

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[20] NAT'L INST. OF MENTAL HEALTH, *supra* note 19; *See also* U.S. DEP'T OF HEALTH & HUMAN SERVS., MENTAL HEALTH: A REPORT OF THE SURGEON GENERAL 78 (1999).

[21] NAT'L INST. OF MENTAL HEALTH, *supra* note 19; *See also* U.S. DEP'T OF HEALTH & HUMAN SERVS., *supra* note 20.

[22] *See generally* SLATE & JOHNSON, *supra* note 17.

[23] DSM-IV-TR, *supra* note 7, at xxxi.

[24] *Id.* at xxx.

adequately specifies precise boundaries for the concept of 'mental disorder.'"[25] Not surprisingly, different mental health theories have emerged around the definition of mental disorder which separate mental illness itself into two schools of thought: a biological model, which posits that one's mental illness is an organic issue found within the physical body, and a behavioral model, which centers its focus on one's behavior and reaction to environmental stimuli among other behavioral theories.[26]

Today, the distinction between one's physical health and mental health has been significantly blurred. In 1999, Surgeon General David Satcher published a report on mental health in which he encouraged the American public to abandon the distinction between mental and physical health.[27] As science progresses, the once-separate models of psychology—the biological and the behavioral—have become more intertwined with one another; the biology or physical make-up of the brain is no longer distinct from the way in which one's environment affects one's mind.[28]

It is now commonly understood that the way in which people think and experience their lives and the ways in which they exhibit behavior are simply a reflection of the non-stop workings of the brain.[29] Consequently, what our society considers to be "abnormalities" in thought or behavior may simply be a reflection of the abnormalities in the physical make-up of the brain itself.[30] The difficulty in using these scientific advances for the purposes of studying mental illness is the fact that there is often no definite answer; there is usually always a "gray area" between mental health and mental illness.[31]

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[25] *Id.*

[26] CHRISTOPHER SLOBOGIN ET AL., LAW AND THE MENTAL HEALTH SYSTEM: CIVIL AND CRIMINAL ASPECTS 7, 10 (5th ed. 2009).

[27] U.S. DEP'T OF HEALTH & HUMAN SERVS., *supra* note 20, at 6.

[28] *Id*. at 31 ("The brain and mind are two sides of the same coin. Mind is not possible without the remarkable physical complexity that is built into the brain, but, in addition, the physical complexity of the brain is useless without the sculpting that environment, experience, and thought itself provides. Thus the brain is now known to be physically shaped by contributions from our genes and our experience, working together. This strengthens the view that mental disorders are both caused and can be treated by biological and experiential processes, working together. This understanding has emerged from the breathtaking progress in modern neuroscience that has begun to integrate knowledge from biological and behavioral sciences.")

[29] *Id.* at 39.

[30] *Id.*

[31] *Id.*

B. POST-TRAUMATIC STRESS DISORDER

Among the many disorders found within the DSM-IV-TR is none other than Post-Traumatic Stress Disorder. Consistently written about throughout history—especially in connection with war-related trauma—but repeatedly redefined, PTSD has affected countless people since its discovery, regardless of the way in which its symptoms appeared or the name the disorder was given. Today, we certainly have a better understanding of the disorder but looking back begs the question: will the illness continue to change as time goes on?

1. Diagnosis and Treatment

The DSM-IV-TR defines Post-Traumatic Stress Disorder as the

> [D]evelopment of characteristic symptoms following exposure to an extreme traumatic stressor involving direct personal experience of an event that involves actual or threatened death or serious injury, or other threat to one's physical integrity; or witnessing an event that involves death, injury, or a threat to the physical integrity of another person; or learning about unexpected or violent death, serious harm, or threat of death or injury experienced by a family member or other close associate…[32]

A person's response to the traumatic event in question must include intense fear, helplessness, or horror.[33] The most common symptoms associated with PTSD include "persistent reexperiencing of the traumatic event…persistent avoidance of stimuli associated with the trauma and numbing of general responsiveness…and persistent symptoms of increased arousal."[34] If the traumatic event was the result of human action, the symptoms may be more severe and may also last longer.[35] Although many veterans may have experienced traumatic events while on duty, not all people who are faced with trauma develop PTSD.[36] Factors that help

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[32] DSM-IV-TR, *supra* note 7 at 463.

[33] *Id*.

[34] *Id*.

[35] Dep't of Veterans Affairs, *Fact Sheet: New Regulations on PTSD Claims*, ¶ 1, VA.GOV (2010), http://www.va.gov/ptsd_qa.pdf.

[36] DEP'T VETERANS AFFAIRS, WHAT IS PTSD? (Jan. 1, 2007), *available at* http://www.ptsd.va.gov/public/pages/what-is-ptsd.asp.

determine who may develop the disorder include how long the trauma lasted, if the person lost someone close to them because of the trauma, and how much help and support the person received after the event.[37]

According to the National Center for Posttraumatic Stress Disorder, treatments for PTSD may vary but Cognitive Behavioral Therapy (CBT),[38] Eye Movement Desensitization and Reprocessing (EMDR),[39] and medications called Selective Serotonin Reuptake Inhibitors (SSRIs) are the most effective in treating PTSD.[40] The FDA has approved the use of two SSRIs, Zoloft and Paxil, as the best pharmacological method of treatment for PTSD.[41] Although SSRIs do work, veterans that take such medications may experience symptoms such as a decreased libido, drowsiness and fatigue, and nausea.[42] Dr. Matthew Friedman, a psychiatrist for the National Center for PTSD, encourages veterans who hope to live a life free of medication to pursue psychotherapy.[43] Dr. Friedman clarifies by saying

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[37] *Id.*

[38] NAT'L CTR. FOR POSTTRAUMATIC STRESS DISORDER, UNDERSTANDING PTSD TREATMENT 2, 3 (Feb. 2011), *available at* www.ptsd.va.gov/public/understanding_TX/booklet.pdf. Included within Cognitive Behavioral Therapy is Cognitive Processing Therapy, or CPT, which consists of four main parts: (1) learning about one's PTSD symptoms and how treatment can help; (2) becoming aware of one's own thoughts and feelings; (3) learning skills to challenge one's thoughts and feelings, also known as "Cognitive Restructuring"; and (4) understanding common changes in beliefs and thoughts that occur after experiencing trauma. *See id.* at 3. Also included within CBT is Prolonged Exposure Therapy, or PE, which also consists of four parts: (1) Education or learning about one's symptoms and how treatment can help; (2) Breathing Retraining to help patient learn how to manage stress; (3) Real World Practice (*in vivo* exposure) to help reduce distress in safe situations that the patient had been avoiding; and (4) Talking through the trauma (imaginal exposure). *See id.*

[39] *Id.* at 5. (EMDR consists of four main parts: (1) Identification of a target memory or image concerning the trauma; (2) Desensitization and reprocessing by focusing on mental images while doing eye movements that therapist has coached patient on; (3) Installing positive thoughts and images once the negative thoughts are no longer distressing; and (4) Body Scanning by focusing on tension or unusual sensations in patient's body in the hope that the patient will be able to identify additional problems that need to be dealt with). *See id.* at 5.

[40] *Id.* at 6.

[41] *Id.*

[42] *Id.*

[43] *Id.*

> With medication you need to be on it indefinitely, for the most part, whereas for psychotherapy, you typically need 10-12 sessions and maybe a 'booster' now and then…So for a patient that doesn't want to be on medication indefinitely, that can be another motivation for them to go into psychotherapy.[44]

Dr. John H. Krystal of the Department of Veterans Affairs' National Center for PTSD commented that the benefits medical professionals had believed patients were experiencing from medications most likely came from engaging the patient in other forms of treatment, such as talk therapy.[45] Studies have shown that some form of talk therapy either alone or in combination with an antidepressant medication, may be the best method of treatment for alleviating symptoms such as nightmares.[46] Knowing what kinds of treatments work best in treating PTSD is especially important when analyzing the insurance coverage American veterans receive from the United States. The Department of Veterans Affairs' duty to provide veterans with mental health care coverage isn't as simple as covering prescription medications. Veterans may need *both* medication and some form of talk-therapy to successfully overcome their battles with PTSD and this is often where insurers, including the Department of Veterans Affairs, fall short.

III. WORLD WAR I

A. BACKGROUND

On June 28th, 1914, a Serbian nationalist shot and killed the Archduke Franz Ferdinand, the heir to the Austro-Hungarian throne, in Sarajevo.[47] After the assassination, the major world powers split in two: the Allies, which included Russia, France and Britain, and the Central Powers, composed of Germany, Austria-Hungary and Turkey.[48]

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[44] *Id.*

[45] Benedict Carey, *Drugs Found Ineffective for Veterans' Stress*, N.Y. TIMES (Aug. 2, 2011), http://www.nytimes.com/2011/08/03/health/research/03psych.html.

[46] *Id.*

[47] *See* PUB. BROAD. SERV., *Introduction to the Great War*, PBS.ORG, http://www.pbs.org/greatwar/chapters/index.html (last visited Nov. 28, 2011).

[48] *See id.*

The United States entered the War to support the Allies in 1917 after President Woodrow Wilson encouraged the country to "make the world safe for democracy."[49] On November 11, 1918, an Armistice was declared that ended the Great War.[50] By the time the War had ended in 1918, nine million people had died,[51] 116,000 thousand of whom were American soldiers.[52] Another 204,000 American soldiers returned to the United States wounded.[53]

The fortunate soldiers that did survive the massacres of World War I, wounded or not, returned home to a different world and with a different outlook on life. World War I "marked the first use of chemical weapons, the first mass bombardment of civilians from the sky, and the century's first genocide."[54] This new method of warfare, like the use of chemical poison gas, heavy artillery, and trenches, subjected American soldiers to unexpected traumatic events, which contributed to what was then called "Shell Shock" or "Combat Fatigue."[55] Initially, medical professionals believed that the symptoms associated with shell shock were actually attributable to a physical "shock" to the nervous system, also termed as "shelling."[56] Symptoms of shell shock included staring eyes, violent tremors, blue and cold extremities, and unexplained deafness, blindness or paralysis.[57]

As medical professionals began to notice that the symptoms of shell shock were present in soldiers who had never experienced "shelling", classification of the illness as a psychiatric disorder become more common.[58] At the time, treatment for shell shock was primarily concerned with treating the soldier as close to the traumatic event as possible.[59] In addition to concerns with Immediacy, other treatment considerations

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[49] *Id.*

[50] *See id.*

[51] *Id.*

[52] DEP'T OF VETERANS AFFAIRS, VA HISTORY IN BRIEF, *supra* note 14, at 7.

[53] *Id.*

[54] PUB. BROAD. SERV., *Introduction to the Great War*, *supra* note 47.

[55] Baran, *supra* note 2. *See also* Charvat, *supra* note 5 at 11, 14; PUB. BROAD. SERV., *Stalemate*, PBS.ORG, http://www.pbs.org/greatwar/chapters/ch1_stalemate.html (last visited Nov. 28, 2011).

[56] Baran, *supra* note 2.

[57] Charvat, *supra* note 5.

[58] Baran, *supra* note 2. *See also* Erica Goode, *When Soldiers Snap*, N.Y. TIMES (Nov. 8, 2009), http://www.nytimes.com/2009/11/08/weekinreview/08goode.html.

[59] Charvat, *supra* note 5.

included Simplicity, or providing simple treatment such as rest, food, and shelter, and Expectancy, or the expectation that the soldier would return to his position in the battle as soon as treatment had concluded.[60] In Europe, methods such as electro-shock therapy and Torpillage therapy[61] were also used in the hopes of curing the "hysteria" that had taken over the Allied soldiers.[62] Soldiers who returned home to the United States with shell shock confused the American people with the new and unheard of disorder.[63]

B. COVERAGE AND TREATMENT FOR VETERANS

Before the United States had even entered the war, Congress passed the War Risk Insurance Act of 1914 to insure American ships and their precious cargo.[64]

The Act was amended in 1917 both to provide soldiers with insurance against loss of life, injury, or capture by the enemy while aboard American merchant ships and to offer veterans government-subsidized life insurance.[65] By 1917, the Surgeon General, Rupert Blue,[66] recognized the

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[60] *Id*.

[61] Laurent Tatu et al., *The "Torpillage" Neurologists of World War I: Electric Therapy to Send Hysterics Back to the Front*, 75 NEUROLOGY 279, 280 (2010) (Torpillage, which literally means torpedoing, would include a doctor, "strongly exhort[ing] a soldier to return to a normal state of being with the help of the electric current.").

[62] *Id*. at 279.

[63] *See* Baran, *supra* note 2 ("I wish you could be here in this orgie of neuroses and psychoses and gaits and paralyses….I cannot imagine what has got into the central nervous symptom of the men…Hysterical dumbness, deafness, blindness, anaesthesia galore. I suppose it was the shock and the strain, but I wonder if it was ever thus in previous wars? …The soldier, having passed into this state of lessened control, becomes prey to his primitive instincts….He may be so affected that changes occur in his sense perceptions; he may become blind or deaf or lose the sense of smell or taste. He is cut off from his normal self and the associations that go to make up that self. Like a carriage which has lost its driver, he is liable to all manner of accidents. At night insomnia troubles him, and such sleep as he gets is full of visions; past experiences on the battlefield are recalled vividly; that will that can brace a man against fear is lacking.") (internal quotation marks omitted).

[64] DEP'T OF VETERANS AFFAIRS, VA HISTORY IN BRIEF, *supra* note 14, at 7.

[65] *Id.*

[66] Office of the Surgeon Gen., *Previous Surgeons General*. SURGEONGENERAL.GOV, http://www.surgeongeneral.gov/about/previous/index.html (last visited Nov. 28, 2011).

seriousness of shell shock and as a result, created a comprehensive treatment program for those soldiers who exhibited shell shock symptoms.[67] The program endeavored to place a sufficient number of psychiatrists in as many combat units as possible.[68]

In an attempt to further understand the disorder, the United States sent Major Thomas Salmon to France to study the symptoms and possible treatments for shell shock and to make recommendations to the U.S. Army based on his research findings.[69] Major Salmon proposed a system of "forward psychiatry" in which hospital beds were to be cleared for mental cases, which ultimately resulted in the creation of Base Hospital No. 117 in La Fauche, France.[70] In October of 1917, Major Salmon reported that one-seventh of all discharges from the British Army were attributable to shell shock.[71]

Two years later, in 1919, Congress passed a law as part of the War Risk Insurance Act, which placed the Public Health Service in charge of veterans' medical care, transferred several military hospitals to the Public Health Service, and also authorized the establishment of new hospitals in the hope of overcoming the large burden that had been placed on armed services hospitals.[72] In 1921, with the purpose of consolidating veterans programs managed by three different agencies, Congress created the Veterans' Bureau, headquartered in Washington, D.C.[73] Just three years later in 1924, General Frank T. Hines, the second director of the Bureau, reorganized the Bureau into six different services: medical and rehabilitation, claims and insurance, finance, supply, planning and control.[74]

Although society and its mental health professionals of the time period had moved towards understanding and classifying shell shock as a mental disorder, adequate mental health care coverage and effective

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[67] Charvat, *supra* note 5.

[68] *Id.*

[69] Edgar Jones et al., *Shell Shock and Mild Traumatic Brain Injury: A Historical Review*, 164 AM. J. PSYCHIATRY 1641, 1642.

[70] *Id.*

[71] *Id.*

[72] DEP'T OF VETERANS AFFAIRS, VA HISTORY IN BRIEF, *supra* note 14, at 7.

[73] DEP'T OF VETERANS AFFAIRS, VA HISTORY IN BRIEF, *supra* note 14, at 8 (These agencies included the Bureau of War Risk Insurance, Public Health Service and the Federal Board of Vocational Education. The consolidation did not encompass the Bureau of Pensions of the Interior Department and the National Homes for Disabled Volunteer Soldiers, which remained separately administered).

[74] *Id.*

treatments for shell shock were almost nonexistent by the end of the War. In addition, the movement from defining shell shock as a physical illness to a mental disorder greatly affected not only the methods of treatment used to treat shell shock but the stigma that the surviving soldiers returned home to as well.[75] If the explanation for shell shock was physical, such as a breakdown or withering of the nerves in the brain, treatments such as rest, massage and electroshock therapy were used.[76] One commentator remembered, "with what tenacity men clung to a diagnosis of 'shell shock'… something which was generally recognized as incapacitating and warranted treatment in a hospital."[77] As a result, the stigma associated with shell shock was not as prevalent because it was viewed as a physical disorder or "neurological lesion."[78] When the source of the illness became psychological however, rest, the "talking cure", and hypnosis became the recommended treatment.[79]

Consequently, male soldiers who had been seen as the strong defenders of our country were now weakened and emasculated by their psychological diagnosis. In all such psychological treatments for shell shock, occupational retraining and the "inculcation of masculinity" were highly recommended for all soldiers.[80] One medical supervisor at a military hospital informed all medical officers that although they were required to show sympathy to all shell shock patients, "the patient must be induced to face his illness in a manly way."[81] When symptoms became apparent on the battlefield, men were often dismissed with little sympathy.[82] Upon returning home and entering military hospitals for shell shock treatment, soldiers were met with even less sympathy; veterans were greeted in silence and hung their heads in "inexplicable shame" as they entered the hospital.[83] It is therefore unsurprising that in a country with such little understanding and sympathy for a condition as serious as shell shock, there

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[75] Joanna Bourke, *Shell Shock During World War One*, BBC HISTORY (Mar. 10, 2011), http://www.bbc.co.uk/history/worldwars/wwone/shellshock_01.shtml.

[76] *Id.*

[77] Jones et al., *supra* note 69, at 1644.

[78] *Id.*

[79] Bourke, *supra* note 75. *See also* Jones et al., *supra* note 69, at 1644 ("Only in 1917, when the military authorities deliberately discouraged use of the term and suggested an association with malingering, did it become a controversial diagnosis.").

[80] Bourke, *supra* note 75.

[81] *Id.*

[82] *Id.*

[83] *Id*.

was inadequate mental health coverage to assist veterans in their recovery. The United States' inability to define and understand PTSD meant that government-sponsored coverage and treatment were moved to the bottom of the Veterans Bureau's list of priorities.

IV. WORLD WAR II

A. AFTERMATH OF WORLD WAR I

By the end of World War I, much of the United States had felt that the War was a monumental mistake, never to be repeated again.[84] For years, the United States focused on everything but its armed forces, which were composed of too few men, outmoded and rusty equipment, and dwindling spirits.[85] By the time the Great Depression hit, however, America's people were without jobs and thus, eager to go back to work.[86] This excitement and energy that had infected the American population would mobilize people to remodernize its armed forces. This patriotic enthusiasm would translate into the way Americans felt about World War II.

In 1930, Congress created the Veterans Administration ("VA") by consolidating the Veterans' Bureau, the Bureau of Pensions, and the National Homes for Disabled Volunteer Soldiers.[87] President Herbert Hoover signed the executive order establishing the VA on July 21, 1930.[88] Brigadier General Frank T. Hines, who had served as the Director of the Veterans' Bureau since 1923, was appointed as the first administrator of the VA and would remain in that position until 1945.[89] The new VA was accountable for medical services and coverage for veterans, allowances and disability compensation for World War I veterans, life insurance and other benefits such as pensions and retirement payments.[90] In the next ten years, General Hines and the new VA would expand the number of VA hospitals from sixty-four to ninety-one and would increase the number of beds from

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[84] PUB. BROAD. SERV., *The Perilous Fight: Building an Army*, PBS.ORG (2003), http://www.pbs.org/perilousfight/battlefield/building_an_army/.

[85] *Id.*

[86] *Id.*

[87] DEP'T OF VETERANS AFFAIRS, VA HISTORY IN BRIEF, *supra* note 14, at 12.

[88] *Id.*

[89] *Id. See also* DEP'T OF VETERAN AFFAIRS, *VA History*, http://www.va.gov/about_va/vahistory.asp (last visited Dec. 21, 2011).

[90] DEP'T OF VETERANS AFFAIRS, VA HISTORY IN BRIEF, *supra* note 14, at 12.

33,669 to 61,849.[91] It seemed that both the American people and government were beginning to realize that resources were required to help these veterans acclimate to citizen life once again.

B. BACKGROUND

On Sunday, December 7th, 1941, Japanese aircraft fighters launched an attack on Pearl Harbor, which killed 2,400 Americans stationed in Hawaii.[92] Another 1,200 Americans that had been burned or maimed in the attack were sent to the already over-crowded hospitals in nearby Oahu.[93] President Franklin Roosevelt immediately declared war on Japan and less than one week later on December 11th, Adolf Hitler declared war on the United States.[94]

Learning from the effects of shell shock on its veterans during World War I, the United States Army conducted extensive psychiatric screenings of its soldiers before deploying them overseas. The military established such screenings with the intention of identifying the soldiers that might be vulnerable to developing psychological problems in combat environment due to "defects" such as personality flaws or inherent psychological neuroses.[95] Unfortunately, because pre-deployment screening for possible future behavior indicators was new to the American psychiatric world, screening was imprecise and extremely unreliable.[96]

Unfortunately, because pre-deployment screening for possible future behavior indicators was new to the American psychiatric world, screening was imprecise and extremely unreliable.[97]

In all, over sixteen million Americans enlisted in World War II. By the end of the War in 1945, over 400,000 Americans had been killed, and

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[91] *Id.* See *also* DEP'T OF VETERANS AFFAIRS, *VA History*, *supra* note 89 (stating there were only fifty-four VA hospitals in 1930).

[92] PUB. BROAD. SERV., *The Perilous Fight: Pearl Harbor*, PBS.ORG, http://www.pbs.org/perilousfight/battlefield/pearl_harbor/ (last visited Nov. 28, 2011).

[93] *Id.*

[94] *Id.*

[95] Madelyn Hsiao-Rei Hicks, *Mental Health Screening and Coordination of Care for Soldiers Deployed to Iraq and Afghanistan*, 168 AM. J. PSYCHIATRY 341, 341 (2011).

[96] *Id.*

[97] *Id.*

almost another 700,000 men had been wounded.[98] The total number of reported fatalities for all who participated in World War II varies from thirty-five million to sixty million.[99] The destruction of World War II, less than thirty years after the devastation of World War I, sparked the beginning of different shell shock symptoms in soldiers who survived long enough to experience trauma.[100] Just as the United States had experienced new chemical and trench warfare in World War I, advances in technology and the creation of innovative atrocities in World War II took a very devastating psychological toll on American troops and lead to the development of a "new shell shock."[101] The newly invented atomic bomb that the United States dropped over Nagasaki and Hiroshima in August of 1945 killed approximately 375,000 people instantly and continued killing thousands more in the following decades from radiation poisoning.[102] American soldiers, although following orders, were forced to realize that the bomb President Truman had promised would never be used on women and children had killed—and would continue to kill—innocent civilians for years to come.[103] In addition to the horror of the atomic bomb, the atrocities that American soldiers viewed when liberating German concentration camps traumatized much of the United States' military force for many years.[104] Many soldiers did not believe that such devastation was actually happening, and many would not have believed it if they had not seen it.[105] In comparison to the warfare in the First World War, World War II was

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[98] ANNE LELAND & MARI-JANA OBOROCEANU, CONG. RESEARCH SERV., RL 32492, AM. WAR & MILITARY OPERATIONS CASUALTIES: LISTS & STATISTICS (2010). *See also* DEP'T OF VETERANS AFFAIRS, VA HISTORY IN BRIEF, *supra* note 14, at 13 ("Some 671,817 men and women had been wounded and 405,399 had been killed. Hundreds of thousands of dependents were left in need.").

[99] *World War II*, ENCYCLOPEDIA BRITANNICA ONLINE, *available at* http://www.britannica.com/EBchecked/topic/648813/World-War-II (last visited Feb. 18, 2013).

[100] *See* Goode, *supra* note 58, (although shell shock was still very much in the forefront of the United States', newly-developed symptoms were different enough from the symptoms in World War II that the diagnosis of "shell shock" was replaced with other definitions for newly-defined mental illnesses).

[101] *See infra* pp. 89.

[102] PUB. BROAD. SERV., *The Perilous Fight: The Atomic Option*, PBS.ORG, http://www.pbs.org/perilousfight/psychology/the_atomic_option/ (last visited Nov. 28, 2011).

[103] *Id*.

[104] *Id*.

[105] *Id*.

> [A] greater horror for the 800,000 men in extended combat… Bigger field weapons meant soldiers fought in small units dispersed over more territory, without the company camaraderie that sustained WW1 doughboys. Bomber crews could kill more people from afar, but at significantly greater risk from enemy fighters and anti-aircraft fire. At sea, enemy planes and submarines could turn the mightiest warship into a sinking inferno in minutes.[106]

The "new shell shock" of World War II manifested itself in symptoms such as nightmares, anxiety, and startled reactions.[107] Other symptoms included headaches, dizziness, fatigue, memory loss, and poor concentration.[108] The new disorder, which no longer included trembling or paralysis as it did during World War I, was renamed "combat fatigue,"[109] "war neurosis,"[110] or, most notably, "postconcussional syndrome."[111] The treatments for these newly defined disorders were heavily influenced by Freudian psychoanalytic theories,[112] which had taken hold in the United States in between the two World Wars.[113] Psychiatrists and other

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[106] PUB. BROAD. SERV., *The Perilous Fight: The Mental Toll*, http://www.pbs.org/perilousfight/psychology/the_mental_toll/ (last visited Mar. 14, 2013).

[107] Goode, *supra* note 58.

[108] *See also* Jones et al., *supra* note 69, at 1643.

[109] *See* Charvat, *supra* note 5.

[110] *See* Goode, *supra* note 58.

[111] *See* Jones et al., *supra* note 69, at 1643.

[112] Goode, *supra* note 58; *see* Charvat, *supra* note 5 (Another theory for treating combat fatigue rested upon the concept of unit cohesion among soldiers and its connection to resilience in soldiers who had experienced combat fatigue symptoms. Consequently, replacement troops were more susceptible to combat fatigue than tired, seasoned veterans because they lacked such cohesion amongst their fellow soldiers).

[113] *See Contributions of Psychoanalysis*, AM. PSYCHOANALYTIC ASS'N, APSA.ORG, http://www.apsa.org/About_Psychoanalysis/Contributions_of_Psychoanalysis.aspx (last visited Dec. 21, 2011) ("Psychoanalysis became established in America between World War I and World War II, when Americans traveled to Europe to take advantage of psychoanalytic training opportunities there. The single major therapeutic perspective that was transplanted to the United States was ego psychology, based centrally on Sigmund Freud's *The Ego and the Id* (1923) and *The Problem of Anxiety* (1936), followed by Anna Freud's *Ego and the Mechanisms of Defense* (1936) and Heinz Hartmann's *Psychoanalysis and the*

medical professionals in the field experimented with other treatments as well, such as sodium pentathol, in an attempt to get the soldiers to relive their repressed battlefield experiences and thus reach catharsis.[114] Others like Flight Surgeon Jack McKittrick found that distributing alcohol before a flight mission best calmed the men when they most needed it.[115]

One in four casualties during World War II was attributable to combat fatigue, and for soldiers involved in long-term, intense fighting, the ratio was one in two.[116] Combat fatigue was more common in certain combat zones and in the Pacific where, for example, forty percent of combat evacuations were "mental" in nature, and over 26,000 psychiatric cases were reported in Okinawa alone.[117] To keep soldiers from going mad and losing their composure in anticipation of kamikaze attacks,[118] soldiers were not informed that an attack was mounting until they absolutely needed to know.[119] During World War II, 1,393,000 soldiers were treated for battle fatigue and of all ground combat troops; thirty seven percent were discharged for psychiatric reasons.[120]

The classification of postconcussional syndrome or combat fatigue as either physical or mental was, once again, a difficult one to make. As one author put it, "[d]isagreement about etiology followed tracks laid down during World War I."[121] The symptoms of postconcussional syndrome were often quite difficult to differentiate from symptoms of a severe brain injury.[122] While medical professionals did their best to differentiate

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Problem of Adaptation (1939). This perspective of psychoanalysis was dominant in America for approximately a 50-year span until the 1970s.").

[114] PUB. BROAD. SERV., *The Perilous Fight: The Mental Toll*, *supra* note 106.

[115] *Id.*

[116] *Id.*

[117] *Id.*

[118] *Kamikaze*, ENCYC. BRITANNICA ONLINE,http://www.britannica.com/EBchecked/topic/310634/kamikaze (last visited Feb. 18, 2013) ("A kamikaze attack was a military tactic used during World War II in which Japanese pilots would deliberately crash fighter planes into a target, usually a ship. Such a crash would result in the pilot's death and very often, because the planes were often loaded with gasoline and other bombs, in many other deaths as well.")

[119] PUB. BROAD. SERV., *The Perilous Fight: The Mental Toll*, *supra* note 106.

[120] *Id.*

[121] Jones et al., *supra* note 69, at 1643.

[122] *Id.* (stating that "the problem of distinguishing such cases from organic concussion resulting from blast is delicate and often difficult.").

between an organic head injury and postconcussional syndrome,[123] studies on the differences between the two did not support a differentiation.[124] Instead, the medical world came to the conclusion that "the practice of dividing the postcontusional cases into two groups, labeling the one organic and the other functional or neurotic [was]…unprofitable and misleading."[125] As a result, the stigma soldiers experienced upon being diagnosed with shell shock in World War I[126] had barely changed with the newly developed symptoms of postconcussional syndrome in World War II. Some commentators believed, however, that "except for a few blood-n'-guts hardliners like Generals George Patton and Curtis LeMay, the brass no longer thought combat fatigue was evidence of cowardice or a pre-war neurosis."[127] Although mental, combat fatigue was still a wound and many believed that more than anything else, affected soldiers were simply overly-fatigued.[128]

C. COVERAGE AND TREATMENT FOR VETERANS

Due in part to the United States' growing concerns with helping veterans in their transition back to civilian life and in the hopes of decreasing the possibility of a post-war depression, Congress responded by passing the Servicemen's Readjustment Act of 1944, or the "GI Bill of Rights."[129] The GI Bill had three different types of benefits for veterans.[130]

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[123] Jones et al., *supra* note 69, at 1643. One author believed that in examining the timing and number of individual symptoms, one could distinguish between severe head injuries and postconcussional syndrome. Immediate and severe symptoms with a trend towards progressive recovery were indicative of a physically defined head injury while a delay in the onset of symptoms with a tendency of getting worse with time was indicative of postconcussional syndrome. These observations were also been made by other medical authorities in the aftermath of World War I, "instead of passing away in a few days, as they normally do, [symptoms] begin after a comparatively free interval, become apparent again with a definite degree of persistence and exaggeration.". *Id.*

[124] *See id.*

[125] *See id.*

[126] *See infra* p. 89.

[127] PUB. BROAD. SERV., *The Perilous Fight: The Mental Toll*, *supra* note 106.

[128] *See id.* ("The First Armored Division reported that by giving mentals complete rest in a safe area near the front, plus hot meals and a bath, 50-70% returned to combat within three days.") (internal quotation marks omitted).

[129] *See Serviceman's Readjustment Act (1944)*, OURDOCUMENTS.GOV, http://www.ourdocuments.gov/doc.php?flash=true&doc=76 (last visited Nov. 28,

The first benefit provided veterans with up to four years of education or training, the second provided veterans with federally guaranteed farm, business or home loans without a requisite down payment, and the third provided for unemployment compensation.[131] When the World War II GI Bill expired in 1956, approximately 7.8 million veterans had received some form of training and the VA had guaranteed approximately 5.9 million home loans totaling approximately fifty billion dollars.[132] In the same year, Congress also passed the Veterans' Preference Act of 1944, which gave veterans hiring preference where federal funding was involved.[133] Although Congress, the VA and the United States as a whole were certainly becoming more involved in and concerned with veterans' benefits, there was a very apparent gap in coverage for health care and more specifically, mental health care. The lack of evidence for any mental health care coverage is in and of itself indicative of how society in this time period viewed mental illness. It is safe to say that society chose not to view mental illness at all, in fact. It would not be until years later that American veterans would begin to see the government-sponsored mental health coverage and treatment that they deserved. Until then, however, public conceptions of mental illness and mental health treatment would directly affect the VA's coverage for such services—or lack thereof.

The 1999 Surgeon General's Report on mental illness included an overview of the public attitudes and understanding of mental illness in the 1950s, the era immediately succeeding the end of World War II.[134] The Report came to the conclusion that in the 1950s, the public had a very

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2011). *See also* DEP'T OF VETERANS AFFAIRS, VA HISTORY IN BRIEF, *supra* note 14, at 13.

[130] DEP'T OF VETERANS AFFAIRS, VA HISTORY IN BRIEF, *supra* note 14, at 13. *See also Serviceman's Readjustment Act (1944)*, *supra* note 129.

[131] DEP'T OF VETERANS AFFAIRS, VA HISTORY IN BRIEF, *supra* note 14, at 13-14 (the education provision included up to $500 a school year for tuition, fees, books and an additional monthly allowance for additional expenses. The second provision stated that veterans could apply for loans up to $2,000 with a half of that being guaranteed by the federal government. Lastly, the unemployment compensation provision mandated that veterans who had served at least ninety days were allowed $20 per week for a maximum of fifty-two weeks). *See also Serviceman's Readjustment Act (1944)*, *supra* note 129.

[132] DEP'T OF VETERANS AFFAIRS, VA HISTORY IN BRIEF, *supra* note 14, at 14.

[133] Veterans' Preference Act of 1944, Pub. L. No. 78-359, § 2, 58 Stat. 387, 387 (1944). *See also* DEP'T OF VETERANS AFFAIRS, VA HISTORY IN BRIEF, *supra* note 14, at 14.

[134] U.S. DEP'T OF HEALTH & HUMAN SERVS., *supra* note 20, at 7.

unscientific understanding of mental illness, which, in turn, resulted in a highly stigmatized view of mental illnesses as a whole.[135] The intense stigma that had infected society during the time period was linked with the fear that a mentally ill person would be susceptible to unpredictable and violent behavior.[136] The public was typically unable to distinguish those with mental illnesses from people who were generally unhappy and tended to see only extreme forms of behavior or symptoms, such as those exhibited in psychotic disorders, as mental illnesses.[137]

The lack of both private and government-funded coverage for mental health services was not surprising considering society's rudimentary understanding of mental illness which was accompanied by intense stigma. In the aftermath of the two World Wars in less than a fifty-year period, the United States government had other, more "physical" concerns such as those enumerated in the GI Bill to focus its resources and energy on. Although, once again, the United States as a whole had made great progress in caring for veterans who had sacrificed life and limb for their country, those who needed insurance coverage for mental health treatment fell in between the gaps left by the VA's insurance coverage. In the years to come, however, the United States would be confronted with a mental epidemic of sorts that simply could not be ignored. Symptoms of mental illnesses such as shell shock, battle fatigue, and postconcussional syndrome would continue to persist in those who had served. With the United States' involvement in the Vietnam War, the American people would be forced to face mental illnesses on a scale that had never been seen before.

V. VIETNAM WAR

A. AFTERMATH OF WORLD WAR II

In the years following the demobilization of World War II, the number of veterans in the United States jumped to more than fifteen million.[138] To compensate for this enormous growth, the number of VA hospitals also increased from ninety-seven to 151 in the years between 1942 and 1950.[139] Each year, 2.5 million veterans received outpatient and

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[135] *Id*.
[136] *Id*.
[137] *Id.*
[138] *Id.*
[139] *Id.*

dental care at VA facilities and another 2.5 million veterans and their dependents received $125 million in compensation and pensions each month.[140] To meet the growing number of veterans' claims, the VA was reorganized in 1953 into three separate departments including the Department of Medicine and Surgery, the Department of Veterans Benefits, and the Department of Insurance.[141] In the following years, the VA would continue expanding its research and increasing its funding on chronic care problems such as age.[142] Other programs such as the Ex-Servicemen's Unemployment Compensation Act of 1958 would establish a system of unemployment insurance for both deployed and peacetime veterans.[143] In the years leading up to the Vietnam War, benefits and programs were increased in number and importance but the VA had still not focused its funding or energies—at least not explicitly—on veterans' mental health.

B. BACKGROUND

In the aftermath of World War II and the world of "combat fatigue", "postconcussional syndrome", and "war neurosis",[144] American psychiatrists renamed the disorder "stress response syndrome" or "gross stress reaction" and included the condition in the first edition of the Diagnostic and Statistical Manual of Mental Disorders, or the DSM.[145] The DSM stated, "Under conditions of great or unusual stress, a normal personality may utilize established patterns of reaction to deal with overwhelming fear…When promptly and adequately treated, the condition may clear rapidly."[146] The DSM restricted diagnosis to those soldiers who were in combat and who had experienced a "civilian catastrophe" such as a fire or explosion.[147]

After North Vietnam had defeated the French Colonial administration of Vietnam in 1954, the new government and its allies within South Vietnam, the Viet Cong, tried to unify the two parts of the

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[140] U.S. DEP'T OF HEALTH & HUMAN SERVS., *supra* note 20, at 7.
[141] *Id.*
[142] *Id.* at 16-17.
[143] *Id.* at 17.
[144] *See infra* p. 89.
[145] Charvat, *supra* note 5; Baran, *supra* note 2, at 4-5.
[146] Baran, *supra* note 2, at 5.
[147] *Id.*

country into one coherent communist regime much like China.[148] The South Vietnamese government, on the other hand, fought for a more Western-like form of government, like its allies the United States.[149] Although there was an American presence in South Vietnam throughout the 1950s, U.S. presence began increasing on a large scale in 1961.[150] By 1965, the United States had introduced active combat units and by 1969, more than 500,000 American military work forces were present in South Vietnam.[151] Incidentally, the American Psychiatric Association chose to remove "gross stress reaction" from the DSM in 1968[152] and to instead combine all trauma-related disorders into a category titled "situational disorders" in the DSM-II.[153] As a result, mental health professionals could no longer diagnose a veteran or soldier in active duty with a combat-related illness.[154] For those veterans returning home, the lack of a concrete diagnosis made it difficult both for mental health professionals to assess health and disability benefits and for the soldiers to receive any mental health coverage.[155] Once again, it seemed as if the United States government had placed other veterans' issues well above mental health coverage and treatment. The removal of gross-stress reduction from the DSM-III certainly contributed to the invisibility of American soldiers' plight with PTSD and as a result, coverage and treatment remained beyond veterans' grasps.

For the next four years, the United States would continue fighting and assisting South Vietnam while other countries, like the Soviet Union and China would provide North Vietnam with weapons, supplies, and military advisors.[156] With "gross stress reaction" having been removed from the DSM, officials classified many soldiers exhibiting symptoms as having "character disorders" and focused their energies on rectifying these "behavioral problems" instead of seeking the diagnosis of a mental illness.[157] Around the same time, a group of "anti-war psychiatrists" led by

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[148] *Vietnam War*, ENCYC. BRITANNICA ONLINE, *available at* http://www.britannica.com/EBchecked/topic/628478/Vietnam-War (last visited Feb. 18, 2013).

[149] *Id.*

[150] *Id.*

[151] *Id.*

[152] Baran, *supra* note 2, at 5.

[153] Charvat, *supra* note 5, at 18.

[154] Baran, *supra* note 2, at 5.

[155] *Id.*

[156] *See* ENCYC. BRITANNICA ONLINE, *supra* note 148.

[157] Baran, *supra* note 2 (follow "Vietnam War" hyperlink).

Chaim Shatan and Robert Jay Lifton created a new diagnostic theory to describe the psychological trauma that veterans had sustained in the Vietnam War. The group called the disorder "Post-Vietnam Syndrome," symptoms of which included "growing apathy, cynicism, alienation, depression, mistrust, and expectation of betrayal as well as an inability to concentrate, insomnia, nightmares, restlessness, uprootedness, and impatience with almost any job or course of study."[158] Shatan and Lifton claimed it was not uncommon for symptoms of Post-Vietnam Syndrome to emerge months or years after veterans returned home.[159]

In 1973, the United States withdrew from Vietnam because it could not bear the physical and monetary costs and by 1975, South Vietnam had completely fallen to the North Vietnamese government.[160] As a result of the Vietnam War, as many as two million civilians and 1.35 million soldiers and Viet Cong fighters had died.[161] In addition, the United States had lost over 58,000 men and woman in their struggle to support the fight against communism.[162]

C. COVERAGE AND TREATMENT FOR VETERANS

At first, Congress limited benefits for the Vietnam War to those who had served between August 5, 1964 and May 7, 1975.[163] Soon after, Congress increased the time period to service beginning on February 28, 1961.[164] During this time period, more than six million Vietnam veterans had been discharged.[165] One of the major differences found in Vietnam-era veterans as compared to those in previous wars was the enormous number of veterans who returned home disabled.[166] Due to even more advances in medical and airlift technology, many veterans who would have died in

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[158] Sally Satel, *The Battle Over Battle Fatigue*, WALL ST. J., July 17, 2010, *available at* http://online.wsj.com/article/SB10001424052748704913304575371130876271708.html.

[159] *See id.*; *see also* Chaim F. Shatan, *Post-Vietnam Syndrome*, N.Y. TIMES, May 6, 1972, at 35.

[160] *See* ENCYC. BRITANNICA ONLINE, *supra* note 148.

[161] *See id.*

[162] *See id.*

[163] *See* DEP'T OF VETERANS AFFAIRS, VA HISTORY IN BRIEF, *supra* note 14, at 18.

[164] *See id.*

[165] *See id.*

[166] *See id.*

previous wars survived, albeit mentally or physically disabled.[167] The return of veterans to civil life within days of leaving combat was also new and by 1972, 308,000 veterans with disabilities connected to military service had returned home.[168]

The quick transition from combat to civilian life in combination with the strong anti-war sentiments infecting the United States at the time caused greater adjustment difficulties than found in previous wars.[169] Additionally, the United States' withdrawal from Vietnam in 1973[170] corresponded with an economic recession on the home front.[171] As a result, a large number of veterans were unemployed and many reported feeling isolated and alienated from friends, family, and society in general.[172] In response to the mounting stressors on Vietnam veterans, Congress passed the Veterans' Readjustment Benefits Act, also called the Vietnam GI Bill.[173] "Under this Act, veterans who had been on active duty for more than 180 consecutive days were entitled to one month of educational assistance for each month of service."[174] The Servicemen's Group Life Insurance program was also instituted in the Vietnam era, which provided soldiers with a maximum of ten thousand dollars of coverage.[175] "Similar coverage was extended to veterans under the Veterans Group Life Insurance program."[176] Finally, Congress created the Veterans Mortgage Life Insurance program, to provide a program of mortgage life insurance for severely disabled veterans who needed grants for special housing

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[167] *See id.*

[168] *See id.*

[169] *See id.*

[170] *See* ENCYC. BRITANNICA ONLINE, *supra* note 148.

[171] *See* DEP'T OF VETERANS AFFAIRS, VA HISTORY IN BRIEF, *supra* note 14, at 18. *See also* MARC LABONTE, CONG. RESEARCH SERV., RL 31237, THE CURRENT ECONOMIC RECESSION: HOW LONG, HOW DEEP, AND HOW DIFFERENT FROM THE PAST? 17-20 (2002).

[172] *See* DEP'T OF VETERANS AFFAIRS, VA HISTORY IN BRIEF, *supra* note 14, at 18.

[173] 38 U.S.C. §101 (2006).

[174] DEP'T OF VETERANS AFFAIRS, VA HISTORY IN BRIEF, *supra* note 14, at 18 (benefit was later increased to one and one half month of educational assistance per each month of service).

[175] *Id.* at 19. *See also Servicemembers & Veterans' Group Life Insurance*, U.S. DEP'T OF VETERANS AFFAIRS, http://www.insurance.va.gov/sglisite/sgli/sgli.htm (last visited Apr. 21, 2013) (today, coverage is available in $50,000 increments up to a maximum of $400,000).

[176] DEP'T OF VETERANS AFFAIRS, VA HISTORY IN BRIEF, *supra* note 14, at 19.

accommodations due to their war-related disabilities up to a maximum of thirty thousand dollars.[177] For the first time, the VA also began instituting outreach programs to bring VA benefits to the attention of Vietnam soldiers.[178] VA representatives were sent to Vietnam to assist soldiers before they were discharged and by 1967, the VA had also installed toll-free telephones to regional offices in each state.[179] In addition, counselors were stationed at separation centers and follow-up letters were sent to those soldiers who did not respond to the VA's initial outreach attempts.[180]

Although health programs such as the Radiation-Exposed Veterans Compensation Act of 1988 were created to handle specific health issues such as Agent Orange exposure,[181] by the end of the war, the VA had still not instituted any formal coverage or assistance programs specifically geared towards mental health programs for veterans with PTSD. As a result, veterans were left without adequate treatment, assistance or coverage for a chronic, highly-stigmatized, and debilitating disorder.

VI. THE CURRENT CONFLICTS IN THE MIDDLE EAST

A. AFTERMATH OF VIETNAM

The time period following the Vietnam War was marked by an increased focus on veterans' benefits and a major season of change in the armed forces.[182] The Government, the VA, and the general American public became increasingly educated on veterans' issues including mental health and as a result, new legislation and programs were enacted. Programs such as the Post-Vietnam Era Veterans' Educational Assistance Act of 1977, the Veterans' and Survivors' Pension Improvement Act of 1978, and the VA's special tribute to deceased Medal of Honor recipients in 1976 all increased the American public's awareness of issues veterans were facing on a daily basis.[183] Until the passage of the Veterans Health Care Amendments Act of 1979, which established a network of Veterans' Centers across the country, and Congress' 1980 authorization for Geriatric

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[177] *Id.* (by 1992, coverage had increased to $90,000).

[178] *Id.*

[179] *Id.*

[180] *Id.*

[181] DEP'T OF VETERANS AFFAIRS, VA HISTORY IN BRIEF, *supra* note 14, at 20-21.

[182] *See id.* at 22.

[183] *Id.* at 22-23 (Arlington National Cemetery and the Soldiers' Home National Cemetery were not transferred to the VA, however).

Research, Education and Clinical Centers, which researched and coordinated veterans' geriatric medicine, very little of the VA's advocacy had been focused on health care coverage, access or assistance.[184] Finally, in 1986, Congress established income-based eligibility assessment protocols for determining whether or not veterans were eligible for free medical care.[185] By passing Public Law Number 99-272 in 1986, Congress established three categories of veterans to determine their eligibility for health care.[186] Veterans in Category A, the veterans with the most need, were provided with free hospital care and were eligible for outpatient and nursing home care.[187] Veterans assigned to either Category B or C based on income and net worth were provided with care on a resource-available basis.[188] Although the VA health care reform of 1986 didn't specifically address mental health, the VA began dedicating resources to serving the homeless and the chronically mentally ill by the late 1980s.[189] In 1984, recognizing the mounting problems with PTSD in veterans, Congress created the Special Committee on Post-Traumatic Stress Disorder, which was composed of PTSD specialists from across the DVA's Mental Health and Readjustment Counseling Services.[190] The Committee was created to determine the DVA's ability to provide assessment and treatment for PTSD and to encourage the DVA's educational, research and benefits activities concerning PTSD.[191]

In 1988, President Ronald Reagan elevated the VA to Cabinet status and, on March 15, 1989, the VA was renamed the Department of

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[184] *Id.* at 23 (at first, in response to the increasing demand for Vietnam veterans, these Vet Centers provided services only to Vietnam veterans).

[185] *Id.*

[186] *See* SIDATH VIRANGA PANANGALA, CONG. RESEARCH SERV., RL 32961, VETERANS' HEALTH CARE ISSUES IN THE 109TH CONGRESS 5 (2006). *See also* DEP'T OF VETERANS AFFAIRS, VA HISTORY IN BRIEF, *supra* note 14, at 23.

[187] RL 32961 at 5-6 ("These Category A veterans were defined to include those with service-connected disabilities, low-income veterans without such disabilities, and certain 'exempt' veterans, including (for example) former prisoners of war, those exposed to Agent Orange, recipients of VA pensions, and those eligible for Medicaid.").

[188] *Id.*

[189] *See* DEP'T OF VETERANS AFFAIRS, VA HISTORY IN BRIEF, *supra* note 14, at 24.

[190] *See* RL 32961 at 22.

[191] *Id.*

Veterans Affairs.[192] The DVA was reorganized into three main parts, which included the Veterans Health Administration, the Veterans Benefits Administration, and the National Cemetery System.[193] During the Persian Gulf War, Congress passed the Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act, which, among other benefits, offered psychological counseling at Vet Centers for veterans having trouble transitioning back to civilian life.[194] Finally, veterans with mental illnesses were being specifically addressed in Congress' attempt to offer more coverage and services for both veterans and soldiers still in combat. In 1995, the VA's Hospitals were consolidated into twenty-two Veterans Integrated Service Networks. The effects of this reorganization included "population-based planning, decentralization, universal availability or primary care, a shift to outpatient care from inpatient care, and an emphasis on measuring health-care performance on the outcome of patient treatment."[195]

Advances in the psychiatric world were also taking place in the post-Vietnam era. In 1980, the American Psychiatric Association introduced "Post-traumatic Stress Disorder" into the third edition of the DSM by placing the disorder in a sub-category of anxiety disorders.[196] Although the formal inclusion of the illness in the DSM-III was a monumental step in the right direction for veterans' rights to mental health care, one of the most important changes the DSM-III's definition ushered in was "the stipulation that the etiological agent was outside the individual (i.e., a traumatic event) rather than an inherent individual weakness (i.e., a traumatic neurosis)."[197] As a result, the tug of war that had previously existed between defining PTSD as biological *or* behavioral was coming to an end due in part to advances in research and to society's greater understanding of mental health. One of the most fundamental concepts included in this new disorder was a necessary understanding of what constituted "trauma" for the purposes of PTSD under the DSM-III.[198]

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[192] *See* DEP'T OF VETERANS AFFAIRS, VA HISTORY IN BRIEF, *supra* note 14, at 26.

[193] *See id.*

[194] *Id.* at 27.

[195] *Id.* at 29.

[196] Matthew J. Friedman, *Posttraumatic Stress Disorder: An Overview*, DEP'T OF VETERANS AFFAIRS (Dec. 20, 2011), http://www.ptsd.va.gov/professional/pages/ptsd-overview.asp. *See also* Charvat, *supra* note 5.

[197] *Id.*

[198] *Id.* ("In its initial DSM-III formulation, a traumatic event was conceptualized as a catastrophic stressor that was outside the range of usual human

Although the diagnostic criteria for PTSD in the DSM have been revised several times since its initial formulation in 1980, the mere fact that a formal diagnosis has been entered into the DSM was a great victory for veterans and their well-deserved mental health care rights.[199]

B. BACKGROUND

The day after the September 11th attacks on the United States in 2001, President George W. Bush declared a war on terror. After the Taliban refused to hand over al Qaeda leader, Osama Bin Laden, American and British forces began airstrikes on Afghanistan. October of 2001 marked the beginning of Operation Enduring Freedom[200] and by August of 2003, the North Atlantic Treaty Organization had also deployed troops to Afghanistan for a peacekeeping mission.[201] Later, the deployed soldiers would expand both in numbers and in geographical location to over eleven

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experience. The framers of the original PTSD diagnosis had in mind events such as war, torture, rape, the Nazi Holocaust, the atomic bombings of Hiroshima and Nagasaki, natural disasters (such as earthquakes, hurricanes, and volcano eruptions), and human-made disasters (such as factory explosions, airplane crashes, and automobile accidents). They considered traumatic events to be clearly different from the very painful stressors that constitute the normal vicissitudes of life such as divorce, failure, rejection, serious illness, financial reverses, and the like. (By this logic, adverse psychological responses to such 'ordinary stressors' would, in DSM-III terms, be characterized as Adjustment Disorders rather than PTSD.) This dichotomization between traumatic and other stressors was based on the assumption that, although most individuals have the ability to cope with ordinary stress, their adaptive capacities are likely to be overwhelmed when confronted by a traumatic stressor.").

[199] *Id.* ("The diagnostic criteria for PTSD were revised in DSM-III-R in 1987, the DSM-IV in 1994, and again in the DSM-IV-TR in 2000. A very similar syndrome is classified in The Classification of Mental and Behavioral Disorders: Clinical Descriptions and Diagnostic Guidelines.").

[200] *Operations Enduring Freedom and Iraqi Freedom (OEF/OIF) Hazardous Exposures*, UNITED STATES DEP'T OF VETERANS AFFAIRS, http://www.publichealth.va.gov/exposures/oefoif/index.asp [hereinafter "OEF"] ("Operation Enduring Freedom in Afghanistan and Operation Iraqi Freedom (primarily in Iraq) are military campaigns that are part of the Overseas Contingency Operation. Operation Enduring Freedom (OEF) began in October 2001").

[201] *See* The Associated Press, *The War in Afghanistan: A Timeline*, CBS NEWS (Dec. 1, 2009), http://www.cbsnews.com/stories/2009/12/01/ap/government/main5850224.shtml.

thousand.[202] That same year, the United States would have ten thousand troops stationed in Afghanistan.[203]

In 2003, President George W. Bush gave Iraqi leader Saddam Hussein and his sons forty- eight hours to leave the country or face the threat of war.[204] When Saddam and his sons did not leave, the United States lead an invasion on Baghdad as President Bush assured the American people that the invasion's purpose was "to disarm Iraq, to free its people, and to defend the world from grave danger."[205] The American invasion toppled Saddam Hussein's government and marked the beginning of years of conflict in Iraq.[206] March of 2003 also marked the beginning of Operation Iraqi Freedom.[207]

Since 2001, approximately 1.64 million American troops have been deployed as part of OEF in Afghanistan and OIF in Iraq.[208] Today, the United States government, under President Barak Obama, has begun withdrawing troops from the Middle East. The Obama administration planned on having all troops out of Iraq by January of 2012.[209] On December 18, 2011, the last convoy of American troops in Iraq left the Middle East and began their voyage home.[210] The Obama Administration had also planned to pull 33,000 of the over 100,000 troops in Afghanistan by the end 2011.[211] Although many of the troops in Afghanistan have

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[202] *Id*.

[203] *Id*.

[204] *Iraq Profile*, BBC NEW MIDDLE EAST, http://www.bbc.co.uk/news/world-middle-east-14546763 (last updated Feb. 5, 2013, 9:45AM).

[205] Jesse Singal, *Seven Years in Iraq: An Iraq War Timeline*, TIME (Mar. 19, 2010), http://www.time.com/time/specials/packages/article/0,28804,1967340_1967342_1967398,00.html.

[206] *See Iraq Profile*, *supra* note 204.

[207] *See Operations Enduring Freedom*, *supra* note 200. ("Operation Iraqi Freedom (OIF) began on March 20, 2003, and continued until 2010, when Operation New Dawn began, reflecting a reduced U.S. role in Iraq.").

[208] *See* INVISIBLE WOUNDS OF WAR, *supra* note 17, at xix.

[209] *See U.S. Forces Begin Withdrawal from Iraq*, WASH. POST (Nov. 2, 2011), http://www.washingtonpost.com/world/us-forces-begin-withdrawal-from-iraq/2011/11/02/gIQAY3qMgM_video.html.

[210] *See Last Convoy of American Troops Leaves Iraq*, N.Y. TIMES (Dec. 18, 2011), http://www.nytimes.com/2011/12/19/world/middleeast/last-convoy-of-american-troops-leaves-iraq.html?pagewanted=all.

[211] *See* Deb Riechmann & Slobodan Lekic, *Withdrawal from Afghanistan: 40,000 Troops to Leave War Zone by End of 2012*, HUFFINGTON POST (Nov. 29, 2011), http://www.huffingtonpost.com/2011/11/29/withdrawal-from-afghanistan_n_1117972.html.

returned home, many still remain. Because of the large number of troops still remaining in Afghanistan, the Senate recently voted to accelerate troop withdrawal in November of 2012.[212] The Senate hopes that the President will, "continue to draw down United States troop levels at a steady pace through the end of 2014; and end all regular combat operations by United States troops by no later than December 31, 2014, and take all possible steps to end such operations at the earliest date consistent with a safe and orderly draw down of United States troops in Afghanistan."[213] Naturally, with the influx of troops returning home in the coming years, issues of coverage for PTSD treatment will certainly arise.

Due in part to the fact that the American public has had more access to international news through the media than it did in the past and also because soldiers are facing, once again, new methods of warfare, the current conflicts in the Middle East have marked an enormous increase not only in the number of soldiers affected with PTSD but also with the amount of national attention and healthcare services the disorder has received. Deployments to the Middle East have taken place at the quickest speed in the history of all volunteer forces with deployments lasting longer, common redeployments, and infrequent breaks in between deployments.[214] As America saw in both World War II and Vietnam,[215] recent advances in medical science, body armor and other military technology means that more soldiers are surviving experiences that would have killed them in earlier wars.[216] As the co-director of the "Invisible Wounds of War" Study team commented, however, "casualties of a different kind have emerged in large numbers—invisible wounds, such as post traumatic stress disorder."[217] In the same study, a telephone survey of approximately two thousand previously deployed veterans were questioned and of those interviewed, fourteen percent reported symptoms consistent with major depression while another fourteen percent reported symptoms consistent with PTSD.[218] Applying these findings to the 1.64 million troops who had been deployed for either OEF or OIF as of October 2007, the study

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[212] *See* Traci G. Lee, *Senate Votes to Accelerate Troop Wtihdrawal from Afghanistan*, MSNBC (Nov. 29, 2012), http://tv.msnbc.com/2012/11/29/senate-votes-to-accelerate-troop-withdrawal-from-afghanistan/.

[213] *Id*.

[214] *See* INVISIBLE WOUNDS OF WAR, *supra* note 17, at xix.

[215] *Infra* pp. 86, 94.

[216] *See* INVISIBLE WOUNDS OF WAR, *supra* note 17, at xix.

[217] *Id.*

[218] *See id.* at 434 (nine percent of veterans reported symptoms consistent with both PTSD and major depression).

estimated that approximately 300,000 veterans were suffering from PTSD or major depression as of April 2008.[219]

The National Center for PTSD also found that ten to eighteen percent of OEF and OIF troops were likely to have PTSD upon returning home.[220] In assessing the stressors faced in each combat zone in 2003, the Center found that soldiers and marines reported more combat stressors at higher levels than soldiers in Afghanistan.[221] The Center listed certain factors which made it more likely that OEF or OIF service members would develop PTSD, which included longer deployment time, more severe combat exposure such as deployment to "forward" areas close to the enemy or seeing others wounded or killed, more severe physical injury, traumatic brain injury, not being married, and low morale and poor social support within the unit.[222]

C. COVERAGE AND TREATMENT FOR VETERANS

The Department of Veterans Affairs now has an ever-expanding web of resources on coverage and services for veterans with mental health problems like PTSD. A quick glance at the Department's website provides page upon page of information, resources, and additional informative documents such as informational pamphlets, a Guide to VA Mental Health Services for Veterans & Families, recent studies on veterans with mental disorders, and links to additional resources beyond those on the website itself.[223] The National Center for PTSD is also an excellent resource for veterans.[224] Programs like AboutFace, which details real veterans' battles with PTSD, have made it apparent that the disorder is personal, extremely real, and curable with the right treatment.[225]

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[219] *Id.* at xxi.

[220] *See Mental Health Effects of Serving in Afghanistan and Iraq*, U.S. DEP'T OF VETERANS AFFAIRS, http://www.ptsd.va.gov/public/pages/overview-mental-health-effects.asp.

[221] *Id.*

[222] *Id.* (Other factors included lower rank, lower level of schooling, family problems, member of the National Guard or Reserves, prior trauma exposure, female gender, and Hispanic ethnic group).

[223] *See generally U.S.Dep't of Veterans Affairs,* U.S. DEP'T OF VETERANS AFFAIRS, www.va.gov.

[224] *See generally National Center for PTSD*, U.S. DEP'T OF VETERANS AFFAIRS, http://www.ptsd.va.gov/index.asp.

[225] *See generally About Face*, U.S. DEP'T OF VETERANS AFFAIRS, http://www.ptsd.va.gov/apps/AboutFace/.

The National Center for PTSD found that recent veterans are seeking health care from the DVA more than ever before.[226] DVA data indicates that between the years of 2002 to 2009, one million troops had left active duty in either Afghanistan or Iraq and thus became eligible for DVA care.[227] Of those one million troops, forty-six percent used DVA health care services and of those who used the services, forty-eight percent were diagnosed with a mental illness.[228] The Center did express concern, however, that many veterans with mental health problems had not yet accessed any available services.[229] Some possible reasons for failing to do so include concern over being seen as weak or treated differently, concern that others would lose confidence in them, concerns about privacy and side effects of treatments, and problems with access, such as cost or location of treatment.[230]

Today, veterans who have served or are currently serving in Iraq or Afghanistan may enroll in the DVA Health Care System and receive healthcare for two years after separation without any co-payment requirements for health issues that are related to military service.[231] After the two-year period expires, veterans may continue to utilize the DVA system but are required to pay applicable co-payments.[232] Although several laws have been proposed to extend the two-year period of time,[233] the DVA, in a 2005 hearing on the proposed laws, expressed its opposition to the laws claiming that two years was more than enough time to apply for enrollment in the health care system and to receive co-payment free health care.[234] When Congress expressed concern that such restriction may prevent veterans from enrolling in the DVA's health care program since symptoms in illnesses such as PTSD may not manifest until years after the trauma, the DVA responded by claiming that, "if PTSD appears in a non-enrolled combat veteran following the end of his or her two-year period of eligibility, and is subsequently determined to be service-connected, that veteran would then become eligible for enrollment in Priority Group 1, 2, or 3, and thus they would be able to receive needed care."[235]

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[226] *See Mental Health Effects*, *supra* note 220.
[227] *Id.*
[228] *Id.*
[229] *Id.*
[230] *Id.*
[231] *See* PANANGALA, *supra* note 186, at 20.
[232] *Id.*
[233] *Id.*
[234] *Id.*
[235] *Id.* at 21.

According to the DVA, it has come a long way in providing services for veterans with PTSD.[236] In addition to the DVA's efforts, the Assured Funding for Veterans Health Care Act of 2005, would require the Secretary of the Treasury to make mandatory appropriations for DVA health care.[237] Enacting the 2005 Act would result in a net increase in direct spending of approximately $179 billion over the 2007-2010 period, and an additional $518 billion over the 2007-2015 period.[238] More recently in 2010, President Barak Obama signed the Caregivers and Veterans Omnibus Health Services Act of 2010 into law.[239] Section 202 of the act specifically provides for training and certification of mental health care providers within the DVA for veterans suffering from sexual trauma or PTSD.[240]

The above series of acts, bills and laws proves that the American government has finally moved veterans' mental health closer to the top of its priority list. Unfortunately, many veterans are still left without adequate coverage for their mental health care. As a result, these veterans are receiving either inadequate treatment or no treatment at all for the PTSD that plagues them. Veterans' support systems that *are* in place are consistently experiencing funding cuts as well. For example, most recently, the DVA announced that it will no longer fund service dogs for veterans

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[236] *Id.* at 23 (pointing out that it has developed an Iraqi War guide for clinicians; implemented a national clinical reminder to prompt clinicians to assess OEF and OIF veterans for PTSD, depression, and substance abuse; implemented a national system of 144 specialized PTSD programs in all states; required all DVA outpatient clinics to either have a psychiatrist or psychologist on staff full-time or ensure that veterans can consult a mental health provider in their community; and established uniform budgets for mental health care at some of the DVA's health centers. In June 2004, the VA instituted the "Afghan and Iraq Post-Deployment Screen" as a mandatory electronic clinical reminder to conduct brief, post-deployment screening of OEF/OIF veterans. The screening consists of brief, validated screening measures to assess alcohol use, PTSD, and depression.).

[237] *Id.* at 26-27.

[238] *Id.* at 27.

[239] *See* Caregivers and Veterans Omnibus Health Services Act of 2010, PUB. L. NO. 111–163, 124 Stat. 1130 (2010). *See also* General James Jones, *Improving Health Care for Veterans*, THE WHITE HOUSE BLOG (May 6, 2010, 4:54 PM), http://www.whitehouse.gov/blog/2010/05/05/improving-health-care-veterans (for a summary of the Act).

[240] *See* Caregivers and Veterans Omnibus Health Services Act of 2010, PUB. L. NO. 111–163, 124 Stat. 1130, sec. 202 (2010).

with mental disorders like PTSD.[241] Endless news articles detail the plight these veterans face and their inability to secure the health care they deserve.[242] In 2009, two non-profit organizations, the Veterans for Common Sense and the Veterans for Truth, sought injunctive and declaratory relief concerning the delays in the DVA's mental health system and in the adjudication or service-connected death and disability compensation claims.[243] In 2011, the United States Court of Appeals for the Ninth Circuit found for Veterans in holding that the DVA's delays were a violation of veterans' due process rights to receive the benefits they're promised by the statute for harms and injuries sustained while in service.[244] Several months after the Ninth Circuit's holding, the DVA had still failed to take any measures to ameliorate the situations veterans with post-traumatic stress disorder are placed in.[245] Although the DVA claims it is taking more steps to improve its mental health care system, these measures are often still not enough.[246]

In addition to mounting pressures placed upon the DVA to overhaul its mental health system, courts and communities across the United States have pulled together more than ever before to support their troops. A new Veterans' Court in Queens, New York hears cases concerning veterans who have committed low-level misdemeanors while experiencing mental health or substance abuse problems.[247] The Veterans' Court will seek treatment rather than imprisonment for veteran-defendants and will also aim to assign a veteran mentor to each defendant in the hopes

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[241] *See* Kevin Dolak, *VA Cuts Funding for Service Dogs for PTSD Veterans*, ABC (Sept. 8, 2012), http://abcnews.go.com/US/va-cuts-funding-service-dogs-ptsd-veterans/story?id=17179680#.UOc0XKWpV95.

[242] *See* Erica Goode, *Suicide's Rising Toll: After Combat, Victims of an Inner War*, N.Y. TIMES (Aug. 1, 2009), http://www.nytimes.com/2009/08/02/us/02suicide.html; Suran, *supra* note 16.

[243] *See* Veterans for Common Sense & Veterans for Truth v. Shinseki, No. 08-16728, (9th Cir. May 10, 2011).

[244] *Id.*

[245] *See More Excuses and Delays from the VA*, N.Y. TIMES (Aug. 21, 2011), http://www.nytimes.com/2011/08/22/opinion/more-excuses-and-delays-from-the-va.html?_r=1&ref=posttraumaticstressdisorder.

[246] *See While Veterans Wait*, N.Y. TIMES (Oct. 24, 2011), http://www.nytimes.com/2011/10/25/opinion/while-veterans-ait.html?ref=posttraumaticstressdisorder.

[247] *See* John Eligon, *Queens Court for Veterans Aims to Help, Not Punish*, N.Y. TIMES (Dec. 13, 2010), http://www.nytimes.com/2010/12/14/nyregion/14vets.html.

of establishing a meaningful connection.[248] Local community projects such as the Wounded Warrior Project have visions of fostering "the most successful, well-adjusted generation of wounded service members in our nation's history." The Wounded Warrior Project does so by creating a support network for its local troops in their transition to civilian life, which may assist the veterans in seeking services such as mental health care coverage and treatment.[249] Such support means that veterans are returning home to more stable support systems than in previous wars. Unfortunately, what services currently exist are simply not able to provide enough support for the large number of veterans who need assistance.

VII. CONCLUSION

The manifestation of post-traumatic stress disorder during each war's era was directly affected not only by the way in which society viewed mental illness at the time, but the way in which each war was fought. Advances in weaponry and medical technology meant that soldiers were seeing more horrific events take place and living to tell the tale. Upon returning home, the way in which soldiers were greeted by their fellow Americans not only affected the ways in which soldiers experienced post-traumatic stress disorder but also affected the ways in which the American government provided—or failed to provide—government-sponsored mental health coverage. When mental health was an afterthought in society's mind, it became so for the Department of Veterans Affairs. Advances in research in the world of mental health subsequently lead to a greater understanding of the origins and composition of mental disorders. The desire the world once had to bifurcate physical disorders from illnesses that plagued one's mind had blurred and the people of the United States slowly began to understand that one couldn't necessarily separate the two. Finally, as soldiers returned home to a more supportive society, the American government began to follow suit in increasing the duration and number of benefits that veterans would receive after completing their service.

The evolution of PTSD in veterans throughout the twentieth and twenty-first centuries coincided with the immense growth of the Department of Veterans Affairs. From offering simple pensions centuries before World War I to offering health care, loan, education *and*

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[248] *Id.*

[249] *See* THE WOUNDED WARRIOR PROJECT, http://www.woundedwarrior project.org/ (last visited Dec. 21, 2011).

employment programs today, the Department of Veterans Affairs has certainly come a long way from its inception. While the name and the symptoms associated with PTSD changed with each war's time period, one thing has remained: veterans are not receiving enough coverage, adequate treatment or adequate compensation for the traumatic mental injuries they have sustained while serving their country. Until the United States' Department of Veterans Affairs begins providing the coverage veterans deserve, affected veterans will not seek out the mental health care they need to successfully treat post-traumatic stress disorder.