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## What We Know and Need to Know about Veteran Access to Justice

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## INTRODUCTION: WHAT WE KNOW AND NEED TO KNOW ABOUT VETERAN ACCESS TO JUSTICE

Elizabeth Chambliss\*

At the national level and within most states, civil legal assistance is organized much like a body without a brain: it has many operating parts but no guiding center.<sup>1</sup>

Evidence-based policy-making about civil legal services is more important than ever. Both the scarcity—and availability—of resources for improving access to justice demand that we invest carefully in service models that work, and in the systematic assessment of civil legal needs and outcomes.

The systematic assessment of legal needs and outcome requires organization, however, and ongoing collaboration between researchers and service providers. It requires institutional support. Law schools can play an important role in providing such support by investing in and promoting research on the civil justice system, and organizing research findings for the benefit of service providers and bar leaders.

To that end, the Nelson Mullins Riley & Scarborough Center on Professionalism at the University of South Carolina School of Law is sponsoring a series of research symposia on access to civil justice<sup>2</sup> and publishing related papers in the *South Carolina Law Review*.<sup>3</sup> The goal of the series is to bring together researchers, service providers, and bar leaders

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1. Rebecca L. Sandefur & Aaron C. Smyth, *Access Across America: First Report of the Civil Justice Infrastructure Mapping Project*, ABA 1, 21 (Oct. 7, 2011), [http://www.americanbarfoundation.org/uploads/cms/documents/access\\_across\\_america\\_first\\_report\\_of\\_the\\_civil\\_justice\\_infrastructure\\_mapping\\_project.pdf](http://www.americanbarfoundation.org/uploads/cms/documents/access_across_america_first_report_of_the_civil_justice_infrastructure_mapping_project.pdf).

2. For more information, see RESEARCH ROUNDTABLE ON LIMITED LICENSING, <http://professionalism.law.sc.edu/conferences/20140227-roundtable.shtml> (last visited Feb. 20, 2017); DATA2J RESEARCH ROUNDTABLE ON ACCESS TO JUSTICE, <http://professionalism.law.sc.edu/conferences/20150326-DATA2J.shtml> (last visited Feb. 20, 2017); VA2J SYMPOSIUM ON VETERAN ACCESS TO JUSTICE, <http://professionalism.law.sc.edu/conferences/2016-VA2J.shtml> (last visited Feb. 20, 2017).

3. See, e.g., Elizabeth Chambliss, *Law School Training for Licensed “Legal Technicians”?* *Implications for the Consumer Market*, 65 S.C. L. REV. 579 (2014) (discussing the implications of law school training for Limited License Legal Technicians); *What We Know and Need to Know about the Future of Legal Services: White Papers for the ABA Commission on the Future of Legal Services*, 67 S.C. L. REV. 191–519 (2016) (collection of sixteen white papers assessing “what we know and need to know” about the legal needs of the public and existing and emerging models for legal services delivery).

to assess “what we know and need to know”<sup>4</sup> about the need for various types of legal service and the effectiveness of new and existing models for service delivery.

This Book examines what we know and need to know about veteran access to justice, with a particular focus on the provision of services through medical-legal partnerships (MLPs), veteran treatment courts, and law school clinics. As a group, the articles sound two main themes.

The first theme is one of increasing investment in veteran access to justice and increasing coordination among service providers. In 2009, President Obama and the Secretary of Veterans Affairs announced the goal of ending veteran homelessness and put forth a strategic plan for achieving that goal.<sup>5</sup> Through increased funding and programs, and interagency partnerships, this initiative has contributed to a nearly fifty percent decrease in the number of veterans experiencing homelessness in 2016.<sup>6</sup> Allie Yang-Green and Karen Lash explain the federal programs and partnerships aimed at ending veteran homelessness and meeting other essential needs, and map the federal resources available for legal service providers.<sup>7</sup>

The number of veteran-oriented MLPs is also increasing and providers have become increasingly organized at the national level. In September 2011, the Department of Veterans Affairs (VA) issued a directive encouraging VA Medical Centers to make space available for legal service providers.<sup>8</sup> As of September 2016, there were over 135 free legal clinics operating in VA facilities, including twelve MLPs in which medical and legal practitioners collaborate in the delivery of care.<sup>9</sup> Currently, VA MLPs

4. See Elizabeth Chambliss, Renee Newman Knake & Robert L. Nelson, *Introduction: What We Know and Need to Know About the State of “Access to Justice” Research*, 67 S.C. L. REV. 193, 193 (2016) (emphasizing the need for “ongoing, systematic research on civil legal needs and services”).

5. U.S. DEP’T OF VETERANS AFFAIRS, VA IS WORKING TO END HOMELESSNESS AMONG VETERANS (2016), [https://www.va.gov/homeless/about\\_the\\_initiative.asp](https://www.va.gov/homeless/about_the_initiative.asp).

6. *Id.*

7. Allie Yang-Green & Karen Lash, *Federal Government as Your Partner: What Advocates Should Know About Federal Resources for Veterans’ Legal Aid*, 68 S.C. L. REV. 209, 213 (2017).

8. U.S. DEP’T OF VETERANS AFFAIRS, VHA DIRECTIVE 2011-034, HOMELESS VETERANS LEGAL REFERRAL PROCESS (2011), [file:///C:/Users/LAWSCLR.DS/Downloads/12011034%20\(1\).pdf](file:///C:/Users/LAWSCLR.DS/Downloads/12011034%20(1).pdf).

9. U.S. DEP’T OF VETERANS AFFAIRS, FREE LEGAL CLINICS IN VA FACILITIES (2016), <https://www.va.gov/ogc/docs/LegalServices.pdf>. See also Yang-Green & Lash, *supra* note 7, at 219. In 2014, the South Carolina Appleseed Legal Justice Center and the Nelson Mullins Riley & Scarborough law firm launched a pro bono legal clinic at the William Jennings Bryan Dorn VA Medical Center. The clinic matches low-income veterans with pro bono lawyers to assist with issues such as expungements, wills, and child support. In its first two years, the clinic received 1,800 calls and served 394 veterans. For more information, see LAWYERS 4 VETS CUMULATIVE REPORT MAY 2014 TO MAY 2016, <http://scjustice.org/wp->

are operational in California, Connecticut, Florida, Maine, and New York, and in the works in at least a dozen other states.<sup>10</sup> In addition, some medical and legal providers collaborate outside of VA facilities. Stacey-Rae Simcox describes a partnership between Stetson University College of Law's Veteran Advocacy Clinic and the University of South Florida's Morsani College of Medicine to improve medical diagnoses and evidence for VA benefit claims.<sup>11</sup> The National Center for Medical-Legal Partnership actively supports the development of MLPs, and serves as a clearinghouse for information and research.<sup>12</sup>

The number of veteran treatment courts, likewise, has nearly doubled in recent years, from 133 in 2012<sup>13</sup> to an estimated 220 in 2014,<sup>14</sup> and organizations such as Justice for Vets<sup>15</sup> and the National Organization for Drug Court Professionals<sup>16</sup> help to promote and coordinate their work. South Carolina established a veteran treatment court in Columbia in 2011<sup>17</sup> and in Greenville in 2012<sup>18</sup> and, in 2013, the legislature authorized solicitors to establish additional veteran treatment court programs throughout the state.<sup>19</sup> Claire Voegelé discusses the history of veteran treatment courts and their

content/uploads/2016/05/Lawyers-4-Vets-Cumulative-Report-2016\_web.pdf (last visited Feb. 20, 2017).

10. Sean Clark, Medical Legal Partnerships (MLPs) in the VA (PowerPoint Presentation on file with author).

11. Stacey-Rae Simcox, *The Need for Better Medical Evidence in VA Disability Compensation Claims and the Argument for More Medical-Legal Partnerships*, 68 S.C. L. REV. 223, 238 (2017).

12. NATIONAL CENTER FOR MEDICAL-LEGAL PARTNERSHIP, <http://medical-legalpartnership.org/> (last visited Feb. 20, 2017).

13. Suzanne M. Strong, Ramona R. Rantala & Tracey Kyckelhahn, *Bureau of Justice Statistics Census of Problem-Solving Courts*, U.S. DEP'T OF JUSTICE 1, 3 (2016), <https://www.bjs.gov/index.cfm?ty=pbdetail&iid=5744> (counting 3,052 problem-solving courts in the United States as of 2012, including 133 veterans' courts).

14. JUSTICE FOR VETS, <http://justiceforvets.org/vtc-history> (last visited Feb. 21, 2017).

15. *Id.*

16. NATIONAL ORGANIZATION FOR DRUG COURT PROFESSIONALS, <http://www.nadcp.org/> (last visited Feb. 21, 2017).

17. *See* FIFTH JUDICIAL CIRCUIT SOLICITOR'S OFFICE, <http://scsolicitor5.org/GeneralSessionsCourt/VeteransCourtProgram.aspx> (last visited Feb. 20, 2017); U.S. DEP'T OF VETERANS AFFAIRS, WM. JENNINGS BRYAN DORN VAMC VETERANS COURT PROGRAM, [http://www.columbiasc.va.gov/COLUMBIASC/features/2013/Veterans\\_Court\\_Program.asp](http://www.columbiasc.va.gov/COLUMBIASC/features/2013/Veterans_Court_Program.asp) (last visited Feb. 20, 2017).

18. *See* David Dykes, *Upstate Program Helps Ease Troubled Vets Back into Civilian Life*, THE STATE, Mar. 27, 2015.

19. Gen. Assemb. A280, 120th Sess. (S.C. 2013) (authorizing solicitors to establish court programs to divert qualifying nonviolent veteran offenders away from the criminal justice system and into appropriate treatment programs).

potential to close the treatment gap for veterans suffering from undiagnosed Post Traumatic Stress Disorder (PTSD).<sup>20</sup>

Finally, the number of law school clinics providing legal services to veterans has increased from “approximately half a dozen”<sup>21</sup> in 2008 to more than fifty in operation or development in 2016, according to a list maintained by the Lewis B. Puller, Jr. Veterans Benefits Clinic at William & Mary Law School.<sup>22</sup> In 2014, the Puller Clinic hosted the first national conference for law school veterans’ clinics<sup>23</sup> and, in 2016, the clinics established the National Law School Veterans Clinic Consortium (NLSVCC).<sup>24</sup> Patricia E. Roberts traces the development of law school veterans clinics<sup>25</sup> and emphasizes the American Bar Association’s (ABA) support for such efforts.<sup>26</sup> In 2014, the ABA House of Delegates adopted a policy urging all law schools to create veterans law clinics.<sup>27</sup> In 2016, ABA President Linda Klein established the Veterans Legal Services Initiative to promote a “holistic, sustainable effort to insure that veterans have access to justice.”<sup>28</sup> One goal of the Initiative is to provide the foundation for a National Military and Veterans Legal Services Network to leverage the resources of existing national, state, and local veterans legal service providers.<sup>29</sup>

20. Claire Voegele, Note, “*Never Again*”: *Correcting the Administrative Abandonment of Vietnam Veterans with Other Than Honorable Discharges Induced by Post-Traumatic Stress Disorder*, 68 S.C. L. REV. 245, 247 (2017) (discussing the history and benefits of veteran treatment courts). *See also* U.S. DEP’T OF JUSTICE, NATIONAL INSTITUTE OF CORRECTIONS, VETERANS TREATMENT COURTS: A SECOND CHANCE FOR VETS WHO HAVE LOST THEIR WAY (May 2016).

21. Patricia E. Roberts, *An All-Volunteer Force: Law Students and Pro Bono Lawyers Helping Veterans*, 68 S.C. L. REV. 273, 280 (2017).

22. *Id.* at 280. *See also* U.S. DEP’T OF VETERANS AFFAIRS, LAW SCHOOL CLINICAL PROGRAMS SERVING VETERANS (2014), [http://www.va.gov/OGC/docs/Vet\\_Law\\_Forum\\_Veterans\\_Law\\_School\\_Clinics.pptx](http://www.va.gov/OGC/docs/Vet_Law_Forum_Veterans_Law_School_Clinics.pptx) (last visited Feb. 20, 2017) (counting “29+” law school veterans clinics).

23. Roberts, *supra* note 21, at 282.

24. *Id.*

25. *Id.* at 279–89 (discussing the benefits of veterans’ clinics and highlighting innovative service models).

26. *Id.* at 289 (discussing the ABA Standing Committee on Legal Assistance for Military Personnel, the ABA Military Pro Bono Program, and the ABA Veterans’ Claims Assistance Network).

27. *See* Terry Carter, *ABA House Urges Law Schools to Create Veterans’ Law Clinics*, ABA J. (Aug. 11, 2014), [http://www.abajournal.com/news/article/aba\\_house\\_urges\\_law\\_schools\\_to\\_create\\_veterans\\_law\\_clinics/](http://www.abajournal.com/news/article/aba_house_urges_law_schools_to_create_veterans_law_clinics/).

28. ABA VETERANS LEGAL SERVICES INITIATIVE, ABA, [http://www.americanbar.org/groups/committees/veterans\\_benefits.html](http://www.americanbar.org/groups/committees/veterans_benefits.html) (last visited Feb. 20, 2017).

29. INITIATIVE: NEEDS, VISION, MISSION AND GOALS, ABA, [http://www.americanbar.org/groups/committees/veterans\\_benefits/veterans\\_goals.html](http://www.americanbar.org/groups/committees/veterans_benefits/veterans_goals.html) (last visited Feb. 20, 2017).

Notwithstanding this recent investment in, and coordination of, resources, many veterans have unmet legal needs. Veterans seeking disability compensation face “a crushing backlog”<sup>30</sup> at the VA, with hundreds of thousands of appeals pending and lengthy wait times.<sup>31</sup> Many of the nation’s more than 21,000,000 veterans face barriers to housing and employment that require legal assistance to address.<sup>32</sup> According to the VA’s annual Community Homelessness Assessment, Local Education and Networking Group for Veterans (CHALENG) survey, five of veterans’ top ten unmet needs require legal assistance: eviction/foreclosure prevention, child support issues, outstanding warrants/fines, discharge upgrades, and restoring a driver’s license.<sup>33</sup>

Moreover, continued federal funding for civil legal assistance is uncertain. Although helping veterans is a popular promise embraced by both political parties,<sup>34</sup> the Trump Administration has proposed drastic cuts to legal and social services,<sup>35</sup> including the complete elimination of the Legal Services Corporation.<sup>36</sup> Much of the recent federal investment in access to civil justice is under threat.

Thus, the second theme of the Book is the need for strategic assessment. How best to leverage existing resources and sustain momentum for improvement? How can providers and researchers work together to improve

30. Roberts, *supra* note 21, at 279 (discussing disability compensation claims data).

31. *Id.* See also U.S. DEP’T OF VETERANS AFFAIRS, VETERAN APPEALS EXPERIENCE: LISTENING TO THE VOICES OF VETERANS AND THEIR JOURNEY IN THE APPEALS SYSTEM 1, 11 (January 2016), [http://www.innovation.va.gov/docs/VOV\\_Appeals\\_FINAL\\_20160115-1.pdf](http://www.innovation.va.gov/docs/VOV_Appeals_FINAL_20160115-1.pdf) (discussing veterans’ experiences with the appeals process).

32. Yang-Green & Lash, *supra* note 7, at 210.

33. U.S. DEP’T OF VETERANS AFFAIRS, COMMUNITY HOMELESSNESS ASSESSMENT, LOCAL EDUCATION AND NETWORKING GROUPS 5 (June 2016), <https://www.va.gov/homeless/chaleng.asp>.

34. See, e.g., Phillip Carter, et. Al., *Passing the Baton: A Bipartisan 2016 Agenda for the Veteran and Military Community*, CENTER FOR NEW AMERICAN SECURITY 1, 7 (Nov. 2015), [https://s3.amazonaws.com/files.cnas.org/documents/CNASReport\\_PassingtheBaton\\_151104\\_final.pdf](https://s3.amazonaws.com/files.cnas.org/documents/CNASReport_PassingtheBaton_151104_final.pdf) (proposing a bipartisan agenda for addressing veterans’ medical and legal needs).

35. See Alexander Bolton, *Trump Team Prepares Dramatic Cuts*, THE HILL (Jan. 19, 2017), <http://thehill.com/policy/finance/314991-trump-team-prepares-dramatic-cuts> (stating that “the proposed cuts hew closely to a blueprint published last year by the conservative Heritage Foundation, a think tank that has helped staff the Trump transition”).

36. *Id.* (“At the Department of Justice, the blueprint calls for eliminating the Office of Community Oriented Policing Services, Violence Against Women Grants and the Legal Services Corporation and for reducing funding for its Civil Rights and its Environment and Natural Resources divisions.”). See also Brenda Shapino Jeffreys, *Trump’s Proposed Cuts to Legal Services Corp. Will Burden Other Legal Aid Organizations*, TEX. LAWYER (Feb. 3, 2017), <http://www.texaslawyer.com/id=1202778424677/Trumps-Proposed-Cuts-to-Legal-Services-Corp-Will-Burden-Other-Legal-Aid-Organizations> (discussing the implications of eliminating the Legal Services Corporation).

the effectiveness of legal services? And how can we measure our progress? As Rebecca L. Sandefur writes, the United States suffers from “a severe data deficit”<sup>37</sup> about the functioning of the civil justice system: “[t]he kinds of fundamental data infrastructure that exist . . . for major social institutions, such as education, family and population, labor markets, health, and criminal justice simply do not exist for civil justice.”<sup>38</sup> Improving this infrastructure is critical for improving access to justice for veterans and nonveterans alike.

Sandefur identifies a variety of strategies for improving assessment of the civil justice system, including adding civil justice measures to existing national surveys, such as the National Crime Victimization Survey (NCVS) and the Current Population Survey (CPS).<sup>39</sup> A chief goal of the Symposium was to provide a forum for exchange between federal researchers and legal and social service providers to discuss what measures of veteran access to justice might be added to instruments such as the NCVS and the CHALENG survey.<sup>40</sup> State and local providers of veterans legal assistance also reported on their data collection efforts and the challenges of tracking intake and outcome data.<sup>41</sup>

Fortunately, we see increasing collaboration between researchers and veterans legal services providers, as well as some interest from private foundations in funding civil justice research. Margaret Middleton, Jack Tsai and Robert Rosenheck describe an ongoing, interdisciplinary study of VA MLPs in Connecticut and New York, funded by the Bristol-Myers Squibb Foundation.<sup>42</sup> The study seeks to assess the effect of legal interventions on veterans’ mental health and quality of life; improve health care workers’ capacity to identify health-harming legal needs; and identify “best practices” for MLPs.<sup>43</sup> As the authors note, “framing the outcomes of legal aid in terms of health measures potentially broadens the interest in legal aid.”<sup>44</sup>

37. Rebecca L. Sandefur, *Paying Down the Civil Justice Data Deficit: Leveraging Existing National Data Collection*, 68 S.C. L. REV. 295, 295 (2017).

38. *Id.*

39. *Id.* at 306.

40. For more information, see VA2J SYMPOSIUM ON VETERAN ACCESS TO JUSTICE, <http://professionalism.law.sc.edu/conferences/2016-VA2J.shtml> (last visited Feb. 20, 2017).

41. See, e.g., Margaret Middleton, Jack Tsai & Robert Rosenheck, *Lessons Learned by an Interdisciplinary Research Team Evaluating Medical-legal Partnership with the Department of Veterans Affairs*, 68 S.C. L. REV. 311, 312 (2017) (discussing outcome measurement by lawyers at the Connecticut Veterans Legal Center); Robert M. Liscord & Catherine S. Elliott, *Serving Those Who Served: Understanding the Legal Needs of Maine’s Veteran Community*, PINE TREE LEGAL ASSISTANCE INC. 1, 2 (June 2013), <http://ptla.org/serving-those-who-served-understanding-legal-needs-maines-veteran-community> (survey of veterans and social service providers about Maine veterans’ legal needs); LAWYERS 4 VETS CUMULATIVE REPORT, *supra* note 9.

42. Middleton et al., *supra* note 41, at 312.

43. *Id.*

44. *Id.* at 320.

New partnerships between researchers and legal service providers are also emerging in other civil justice contexts, providing momentum for a shared conversation about research questions, methods, and priorities.<sup>45</sup> This Book aims to contribute to this shared conversation, and to keep law schools' attention on the need for systematic civil justice research.

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45. See Chambliss et al., *supra* note 4, at 199–200 (discussing increasing collaboration among academic researchers and civil legal services providers).



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