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Valley vets get court of their own

Tulare County offers victims of PTSD a second chance.

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By Lewis Griswold

VISALIA -- Ex-Marine Samuel Betancourt -- a veteran of battlegrounds in Iraq and Afghanistan -- came home with the demons of war haunting his mind.

"I started getting flashbacks," Betancourt said. "I started having dreams about combat."

He was suffering from post-traumatic stress disorder. But instead of getting treatment, Betancourt started getting high on marijuana and methamphetamines.

After his fourth arrest in Dinuba on drug charges, Betancourt, 27, was facing six years in state prison.

"I thought that was a little extreme," said Betancourt, who now lives in Visalia. "I thought I'd better get a lawyer."

His attorney directed him to the new Veterans Court in Tulare County Superior Court, a 5-month-old program exclusively for combat veterans who run afoul of the law.

Instead of being locked up, Betancourt was enrolled in an 18-month mental health treatment program approved by the U.S. Department of Veterans Affairs.

Some civil-liberties advocates are concerned about creating a double standard. But in light of their sacrifices, veterans are entitled to special judicial consideration, officials said.

"These are people who have served their country and as a result have received mental or physical injuries," said Tulare County assistant district attorney Don Gallian, who oversees the program for prosecutors and is himself a veteran. "We want to pay back a little bit for what they did for us."

So far, three veterans courts have been started in California -- Santa Clara and Orange counties also have them. Across the nation, there are 35, up from 22 in February. The three California counties used an existing law that requires hearings for veterans who say they broke the law because they have post-traumatic stress disorder or other combat-related problems.

"It's clear that momentum is building" to establish veterans courts in all states, said Chris Deutsch, spokesman for the National Association of Drug Court Professionals, which has tracked veterans treatment courts since the first one was started in 2008 in Buffalo.

A bill by Assembly Member Mary Salas, D-Chula Vista, would allow Superior Courts in California to set up veterans courts. It passed the Assembly 76-0 and is undergoing review by the Senate veterans affairs and public safety committee.

Similar laws have been passed in Texas, Colorado and Illinois. Meanwhile, Congress is considering legislation to fund veterans courts for nonviolent offenders who have drug problems.

Veterans courts follow the drug court model: Instead of jail, the defendant is diverted to mental health treatment. But the judge still can incarcerate defendants who skip therapy, break the law or fail random drug tests.

Changing lives

Drug courts were starting to expand in 1996 when Barry McCaffrey, a retired four-star Army general, was appointed the nation's drug czar by President Bill Clinton. McCaffrey, who now heads a consulting firm in Arlington, Va., said he soon learned that the courts provide some of the best opportunities for chronic substance abusers to turn their lives around.

McCaffrey said he's a solid supporter of veteran treatment courts as well. Defendants know that their judges have insight into their military background and that support organizations are on hand to help them turn their lives around, he said.

"Military people seem to get back a sense of collective pride" in the veterans courts, McCaffrey said. "It's very, very promising, and we owe these kids our best efforts."

Under the terms of his veterans court order, Betancourt attends three alcohol or drug support group meetings a week, can't hang out with people who drink or do drugs, gets random drug tests, meets weekly with a psychologist and his probation officer, comes to court once a month and attends group therapy for combat veterans.

Statistics on the success of veterans courts nationwide haven't yet been compiled. But in the Buffalo, N.Y., program, 30 of the 150 enrolled have graduated and none of the graduates has been arrested since, said coordinator Jack O'Connor. Five flunked out and went to jail or paid a fine.

In Tulare County, District Attorney Phil Cline, who also is a military veteran, said prosecutors noticed an upsurge in the last year or so in veterans being arrested for vandalism, drug use and domestic violence, yet their backgrounds showed no history of wrongdoing before going to war.

Cline met with all the judges and police chiefs in Tulare County and got strong support for launching a veterans court.

"We never liked the way Vietnam veterans were treated when they came back," Cline said.

Tulare County Superior Court Judge Darryl Ferguson was tapped as the judge -- veterans court meets once a month in his courtroom -- because he's an ex-Marine and his two sons served as Marines in Iraq.

"They're suffering physical injuries to the brain -- literally," Ferguson said. "We're recognizing their service to the country in trying to address their problems."

So far, three veterans have been accepted into the program.

To be eligible, the veteran must have served in a combat zone, been honorably discharged and be diagnosed with post-traumatic stress disorder, traumatic brain injury or a related psychological problem.

Preferential treatment?

A 2007 study by the Rand Corp. estimated that about 18% of veterans from Iraq and Afghanistan are coming home with post-traumatic stress syndrome -- and half don't seek treatment. About 1.7 million service members have served in Iraq and Afghanistan.

Veterans don't break the law more than anyone else, but those who do are likely to be abusing drugs and alcohol, according to a 2000 study by the federal Bureau of Justice Statistics.

But some have questioned whether veterans charged with crimes should get preferential treatment.

"The devil is really in the details," said American Civil Liberties Union lawyer Lee Rowland of Reno, Nev. The ACLU would oppose a system in which a nonveteran gets a stiff sentence, while a veteran gets far different treatment for the same offense, she said.

Special courts for veterans can probably avoid constitutional issues of due process and equal protection if -- like the Tulare program -- they focus on veterans who have post-traumatic stress syndrome, Rowland said.

The veterans court program in Tulare County isn't coddling anyone, officials said.

"This is not a get-out-of-jail-free card," said Gallian, the assistant district attorney. "What we're offering is a chance to turn their lives around."

For example, the veteran must plead guilty before starting a treatment program, he said.

Some have questioned whether the court should accept a veteran whose crime involves violence. There's no "bright line," Cline said. Someone guilty of domestic violence would get consideration, but someone charged with murder, sexual assault, child molestation or a crime where a victim was seriously injured will not be accepted, he said.

If Betancourt stays clean and sober and does everything the judge orders -- he calls a drug lab every day to see if he must take a random drug test that costs him \$12 each time -- he can have his guilty plea erased when he graduates.

"Failure is not an option for me right now," Betancourt said. "If I don't do this, I go to prison."