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# How Attorneys Can Volunteer

Unfortunately, many of America's veterans struggle with various social issues, which often compound the severity of each other. As many legal services groups have overlooked the veteran population, this article suggests ways for attorneys to get involved and give back to America's heroes.

BY **BRYAN J. VOGEL** AND **WILLIAM BORNSTEIN**

# to Help Veterans

Many of America's veterans find themselves struggling with poverty, disability, and other issues upon returning home from service. Often, the presence of one of these issues can compound the severity of another. This holds true for generations of veterans who have served in a range of conflicts, from Korea and Vietnam to the current wars in Iraq and Afghanistan. For these reasons, veterans need civil legal assistance.

Unfortunately, the legal services movement and other civil practitioners have largely overlooked the veteran population. Attorneys looking to serve needy clients on a pro bono basis have historically reached out to many demographics, but not so much to veterans.<sup>1</sup> Additionally, compared to the past, we see fewer veterans organizing—there are no marches, no protests, and no highly mobilized social movements.<sup>2</sup>

There are hopeful signs, though, that these trends might have started to change. Several indignities suffered by veterans, from the crushing backlog of benefits claims to the widespread scourge of sexual assault in the military, have been widely publicized. And, the ways in which ailments such as post-traumatic stress disorder (PTSD), traumatic brain injury, and depression can arise during service and then follow veterans as they try to transition back into civilian life are now better understood.

Part of this progress is due to renewed efforts by veterans legal services organizations and law school clinics to address and raise awareness of some of veterans' legal needs. But despite the work of these organizations, legal resources for veterans remain scarce, and our veterans continue to struggle with legal challenges, creating ample opportunities for committed

attorneys to volunteer and help those in need. If you practice law and are seeking a way to serve our veterans, here are a few options to consider.<sup>3</sup>

## **Serve at a Local, Walk-in Veterans Legal Clinic**

In many metropolitan regions, nonprofits focused on serving veterans host regular walk-in legal services clinics. The success of these clinics depends largely on the turnout of volunteer attorneys to provide consultations on a range of issues. At these clinics, individual veterans get to meet with volunteer attorneys capable of providing them with some guidance on their specific issues.

The range of legal issues tends to be diverse. Most veterans attend clinics like these for advice on divorce, child custody, consumer debt, housing, criminal defense and expungement, medical malpractice, employment and labor issues, and other concerns. Volunteer attorneys can often resolve or provide guidance on these issues during the initial consultation. Sometimes, volunteer attorneys decide to take on the veterans they meet as pro bono clients.

Clinic attendance is easy and requires a small time commitment. To find veterans legal services clinics near you and learn how you can get involved, contact local entities that work on veterans legal issues. Places that should know include your local bar associations (many of which have veterans subsections), nonprofits serving veterans, American Legion organizations, U.S. Department of Veterans Affairs (VA) medical centers, state departments of veterans affairs, and local law school veterans clinics.

## **Take on a Veteran's Appeal Before the Court of Appeals for Veterans Claims**

The Court of Appeals for Veterans Claims (CAVC), an Article I federal court, sees many important veterans legal issues. It has exclusive jurisdiction over Board of Veterans' Appeals (BVA) decisions and has the power to affirm, modify,

or reverse BVA decisions or to remand matters as appropriate.

To understand why veterans need assistance at the CAVC level, it is important to understand the basics of how a veterans' claim gets there in the first place. If veterans or their survivors want to be compensated for disability or death suffered during service, they need to complete a rather difficult form provided by the VA as well as adequate evidence of a disability, the military service that makes them eligible for benefits, and a nexus between their disability and service. Veterans file their claim with one of the VA's many regional offices (RO), which then grants or denies it.

Faced with an adverse decision, a veteran can file a Notice of Disagreement and appeal to the BVA—an administrative body within the VA—for review. If the BVA also issues an adverse decision, veterans can then appeal to the CAVC for appellate review. Notably, in 2012, only about 25 percent of VA decisions appealed to the CAVC have been completely affirmed, with nearly 60 percent being vacated, reversed, or remanded, in whole or in part.<sup>4</sup> These statistics highlight the need for volunteer attorneys at the CAVC level. CAVC decisions can be appealed to the Court of Appeals for the Federal

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Circuit and, from there, to the U.S. Supreme Court.

Unfortunately, more than half of the veterans who file appeals to the CAVC do not have an attorney to represent them<sup>5</sup>, often because they cannot afford one. Taking on a veteran's appeal before the CAVC gives volunteer attorneys a great opportunity to help.

To get a case, interested attorneys should contact the Veterans Consortium Pro Bono Program—an organization that connects willing attorneys with veterans who need help with their CAVC appeal.<sup>6</sup> The Consortium provides volunteer attorneys with a training seminar and sample pleadings, connects them with an experienced attorney mentor, and gives them a copy of the Veterans Benefits Manual—a comprehensive guide for benefits claims. The consortium states that most cases can be completed by new volunteer attorneys in 50 to 60 hours and generally resolve within one year from the time the attorney takes a case. The program not only offers attorney's the chance to get pro bono appellate litigation experience, but also the chance to change the course of a veteran's life for the better.

### **Take on a Veteran's Appeal Before the Federal Circuit**

Interested attorneys' can also take on veterans' appeals before the Court of Appeals for the Federal Circuit by participating in the Federal Circuit Bar Association's (FCBA) Veterans Pro Bono Program. To participate, attorney's must be members of the bar association and must notify the chairman or designated representa-

tive of the FCBA's Veterans Appeals Committee of their interest. Attorneys must also complete a veterans law education program, such as the free training program discussed in the previous section. If the attorney completed the program at an earlier time, no repetition is required.

Cases come to the association when clerks at the CAFC and CAVC and veteran pro se appellants themselves notify the FCBA of potentially meritorious appeals. The FCBA screens the appeals and selects only those for which the CAFC has jurisdiction and at least one meritorious claim. The FCBA then contacts interested bar association members to see if they are interested in taking on the matter. If a member decides to help, he or she becomes responsible for contacting the veteran and establishing an attorney-client relationship. The member then litigates the appeal before the CAFC.<sup>7</sup>

### **Represent a Veteran or Veterans Organization in Impact Litigation**

Attorneys willing to think creatively about how to solve larger policy, structural, or institutional problems affecting veterans need not limit themselves to individual representation through pre-existing pro bono programs. Attorneys interested in promoting larger-scale change for veterans can employ a number of coordinated tactics to advance social progress—identifying an issue, targeting it with Freedom of Information Act (FOIA) requests and lawsuits, running media campaigns to highlight the issue, and/or drafting and promoting legislation to resolve the issue.

Traditionally, law firms have not deployed pro bono efforts in this manner. Instead, more creative thinking about how to address social problems with the law has come out of clinical programs at our nation's law schools. The recent work of the Yale Law School Veterans Legal Services Clinic, for example, shows how attorneys can use their skills creatively to help veterans.

The Yale clinic, founded in 2010, litigates benefits and discharge upgrade cases on behalf of individual veterans before the BVA and CAVC, working repeatedly with the aforementioned Veterans Consortium Pro Bono Program. But the clinic has also represented nonprofits in their efforts to resolve larger systemic problems affecting veterans.

For example, the clinic has filed FOIA suits to uncover the depth and breadth of the sexual assault problem in the military, generating media coverage, drafting policy papers, and crafting proposed legislation along the way. It has also taken a similar approach to the longstanding problem of improperly discharging service members by inaccurately labeling them with personality or adjustment disorders when they are actually suffering from PTSD or another service-related trauma. These discharges can prevent veterans from obtaining housing, jobs, and disability benefits. To address the issue, the clinic filed FOIA requests, drafted targeted legislation and regulations, generated media coverage, and published a policy paper.<sup>8</sup>

Of course, the Yale clinic is not the only organization finding creative ways to advance social justice for veterans through the law. Many other clinics and organizations are doing the same.

### **Conclusion**

Attorneys have a professional responsibility to assure access to justice for those unable to afford a lawyer. Today, our veterans need help. The fact that so many veterans continue to struggle, often invisibly, with challenging legal issues proves there is widespread

opportunity for attorneys to make a difference. This article is not a comprehensive guide but merely a means of illustrating that no matter where you would like to direct your efforts, ample opportunities for serving veterans await you. ☉



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## Endnotes

<sup>1</sup>This history, though not the subject of this article, has been well chronicled. For a more detailed discussion, see Steven K. Berenson, *Legal Services for Veterans – Then and Now*, 31 HAMLINE J. PUB. L. & POL'Y 101 (2009).

<sup>2</sup>Michael J. Wishnie, deputy dean for experiential education, the William O. Douglas Clinical Professor of Law, and director of the Jerome N. Frank Legal Services Organization at Yale Law School, Inaugural Lecture: Resistance and Regeneration (Apr. 8, 2013).

<sup>3</sup>Much has been written on the many ways attorneys can serve veterans, and our list is by no means complete or exhaustive.

<sup>4</sup>UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS, ANNUAL REPORT OCTOBER 1, 2011, TO SEPTEMBER 2012 (2012), available at [www.uscourts.cavc.gov/documents/FY2012AnnualReport.pdf](http://www.uscourts.cavc.gov/documents/FY2012AnnualReport.pdf).

<sup>5</sup>National Veterans Legal Services Program, *Individual Representation* (July 22, 2013), [www.nvlsp.org/what-we-do/individual-representation](http://www.nvlsp.org/what-we-do/individual-representation).

<sup>6</sup>For more information, interested attorneys should visit the volunteer attorneys page of the Veterans Consortium Pro Bono Program at [www.vetsprobono.org/volunteer-today](http://www.vetsprobono.org/volunteer-today).

<sup>7</sup>For more information on this program, see [www.fedcirbar.org/olc/pub/LVFC/cpages/committeepage.jsp?chapter=22&org=LVFC](http://www.fedcirbar.org/olc/pub/LVFC/cpages/committeepage.jsp?chapter=22&org=LVFC).

<sup>8</sup>For more information on the Yale clinic, see [www.law.yale.edu/academics/veteranslegalservicesclinic.htm](http://www.law.yale.edu/academics/veteranslegalservicesclinic.htm).

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