

Mental health wounds of veteran defendants create tough choices in courts

April 24 2015, by Luke O'Neill

A new University of Sydney study has detailed how courts are facing difficult choices about the criminal responsibility of veteran defendants, with post-traumatic stress disorder (PTSD) or serious mental health issues.

Associate Professor Arlie Loughnan found PTSD and serious [mental health issues](#) were commonly considered as part of sentencing and appeal considerations, in an analysis of 50 criminal trials, appeals and sentencing hearings ranging from 1921 until 2013. The cases, which were heard in various Australian jurisdictions, involved serious offences such as murder, drug crimes and incest.

The findings reveal that veteran status, alongside PTSD and other [mental health](#) issues, have been taken into account both for and against the defendant in sentencing and appeal considerations across many of the cases studied.

"It is clear that sentencing judges and others are making strong efforts to accommodate the specific circumstances of 'veteran defendants'. But it is also clear that cases of [veterans](#) with PTSD and other serious [mental disorders](#) convicted of criminal offences have significant treatment needs, which prison may be unlikely to provide," said Associate Professor Arlie Loughnan, an expert in legal history and mental incapacity at Sydney Law School.

She believes a specialist veterans court could more effectively manage

cases involving veteran defendants with PTSD and serious mental [health issues](#).

"It is time for a genuine debate about the possibility of specialist veterans courts, as exist in the USA, to handle these cases. Such courts would ensure that the legal response to crime addresses the root causes of such conduct, and mean that judicial officers could develop valuable experience in managing these cases," said Associate Professor Loughnan.

She said the research points to the importance of providing ongoing support to people returning from war or military service, as a means of addressing the root causes of serious offences allegedly committed by veterans.

Provided by University of Sydney

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