Chapter 23

Veterans Treatment Courts

Judge Robert T. Russell

In January of 2008, Judge Robert Russell created and began presiding over the nation’s first “Veterans’ Treatment Court.” Judge Russell’s proven results and gifted leadership have contributed greatly to the rapid expansion of the Veterans Treatment Court concept, with over 100 such courts now in operation across the nation in early 2013. Among many notable awards for his work with veterans, the National Veterans of Foreign Wars of the United States has awarded Judge Russell with the “2010 James E. Dan Zandt Citizenship Award.” The National Vietnam Veterans of America awarded Judge Russell with its “2010 Achievement Medal.”

Prior to creation of the Buffalo Veterans Treatment Court, Judge Russell created Buffalo’s Drug Treatment Court in December 1995 and continues to serve as its Presiding Judge. Judge Russell is the Past Chairman of the Board of Directors of the National Association of Drug Court Professionals (NADCP) and the Past President of the New York State Association of Drug Treatment Court Professionals, Inc. He also serves on the National Advisory Board of the Judges’ Criminal Justice/Mental Health Leadership Initiative (JLI).

—Editors

I. INTRODUCTION

“The willingness with which our young people are likely to serve in any war, no matter how justified, shall be directly proportional to how they perceive veterans of early wars were treated and appreciated by our nation.”

—George Washington

As you have realized by this point in the book, the United States has a rapidly growing population of combat veterans returning from the wars in Iraq, Afghanistan and the Global War on Terror. Predictably, these extended wars have produced a significant percentage of veterans with serious mental health and/or substance abuse issues. Many of them are now appearing in our nation’s criminal courts, charged with offenses tied,
in one way or another, with those service-connected issues. Military service impacts
the lives of veterans and their families in countless ways. Approximately thirty percent
of veterans returning home from combat suffer from “invisible wounds,” injuries that
are not visible to the eye and, as a result, often go unrecognized and unacknowledged.
These injuries are post-traumatic stress disorder, traumatic brain injury, military sexual
trauma, and major depression.2 The trauma can come from a myriad of sources, whether
the impact of a hidden roadside bomb, explosions from mortars, or less obvious sources
such as the stress of long deployments and the near-continuous risk of combat that these
soldiers face.

Of those suffering, fewer than half seek treatment.3 Without proper care, these
veterans are more prone to destructive actions that bring them into conflict with the
law. Many struggle with substance abuse4 and may come into court with issues ranging
from drunk driving, fighting, domestic violence, or worse. These invisible wounds can
also lead to longer-term problems with the veterans such as homelessness,5 unemployment
and strained relationships, further increasing the likelihood they will end up in our
criminal justice system.

Veterans Treatment Courts can stem this tide by intervening the moment veterans
come into contact with the criminal justice system. By identifying the veterans upon
arrest, their needs can be assessed and a treatment program can be developed. A col-
laborative approach to treatment that focuses on supervision of the veteran throughout
the process can reduce recidivism, thereby reducing long-term costs for taxpayers and
increasing public safety, while helping our veterans lead sober, healthy, and productive
lives.

II. ESTABLISHMENT OF TREATMENT COURTS

The first Veterans Treatment Court in Buffalo, NY, evolved from out of our experience
with veterans who have participated in either the Buffalo Drug Treatment Court or the
Mental Health Treatment Court or both. We realized over time that veterans needed a
different kind of supervision and support, increased collaboration with law enforcement
and the Veterans Administration, and speedy identification and referrals of eligible vet-
erans into treatment. We decided to transfer veterans cases, that traditionally would be
sent to the Drug or Mental Health Treatment Courts, to a centralized singular calendar
of all eligible veterans. We hoped this would allow us to focus on the veterans’ unique
needs and to use vet-to-vet mentoring to help the veterans build and achieve healthy
goals.

We established the first Veterans Treatment Court in Buffalo, New York in January,
2008 after one year of planning. It was successful beyond our expectations. Word

3 Id. at 101, 103.
4 Ismene Petrakis et al., 20 AM. J. ADDICTIONS 185, 188 (2011) (“The rates of substance use disorders among those with mental illness ranged from 21–35%.”)
quickly spread. Today, the number of Veterans Treatment Courts is growing exponentially. By 2010, there were 24 operational courts in the United States. A year later, the number had grown to 80 and as of mid-2012 there were 97 Veteran Treatment Courts with an additional 200 being planned. The courts are located throughout the United States, from Alaska to Maine, and are have even gone being considered overseas, with propose three Veterans Treatment Courts in Great Britain.

A. Drug and Mental Health Court Model

Veterans Treatment Courts have only been in existence since 2008 so we do not have any data on their long-term success rates, but there is significant historical evidence that the general treatment court model works. Drug Courts and Mental Health Courts have been shown to reduce crime by an average of 7 to 14% and we believe these numbers will also reflect the long-term success of Veterans Treatment Courts.

1. Drug Courts

Alternative treatments are not a new phenomenon in the United States. Veterans Courts are built upon the experience of over twenty years of experience with Drug Courts. The first Drug Court was started in 1989 and since that time, over 2300 Drug Courts have been created. These courts target criminal offenders who have drug addiction and dependency problems and they focus on ongoing monitoring of court participants, abstinence, and sanctions to reinforce the court-imposed requirements. The intensive court supervision includes mandatory drug testing, substance-abuse treatment, and other social services as an alternative to adjudication or incarceration. We decided to base our Veterans Courts in part on the Drug Court model because the Drug Court model has been proven to work. "[T]he majority of studies observed reductions in re-offending among the Drug Court participants relative to the comparison participants," who were sentenced to traditional correctional options. Within the different models of Drug Courts, those with more strict accountability standards have been more effective than those with looser standards. The key to effective rehabilitative sentencing lies in the accountability

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9 Drug Court Review, VII NAT’L DRUG CT. INST. 177 (2010).
10 Sean Clark et al., Development of Veterans Treatment Courts: Local and Legislative Initiatives, in VII DRUG CT. REV. 171, 175 (2010).
11 Id.
12 U.S. Gov’t Accountability Off., Pub. No. GAO-12-53, Adult Drug Courts: Studies Show Courts Reduce Recidivism, but DOJ Could Enhance Future Performance Measure Revision Effort 24 (2011). (Percentages of drug-court program participants re-arrested were lower than for comparison group members by 6 to 26 percentage points. Drug court participants who completed their program had re-arrest rates 12 to 58 percentage points below those of the comparison group.), available at http://www.gao.gov/assets/590/586793.pdf.
of the person that is the subject of the treatment, and the communication between the treatment body and the body maintaining accountability.

The nature of the Drug Court model also appears to affect the court’s effectiveness. Diversion and post-adjudication drug court models that either dismissed charges or expunged a conviction from an offender’s record upon graduation appeared more effective than courts with mixed approaches and no uniform incentive for the completion of the court’s requirements. A clear set of judicial contingencies can increase the amount of treatment received. A Drug Court that uses a single model with a standard incentive structure may be more effective in communicating these contingencies and their certainty to the offender. We have used these lessons and have aimed to apply uniform incentives for our veterans courts as well.

The punishment and reward system used for all alternative treatment courts is based on adherence to the program. This is known as “operant conditioning” and has four necessary parameters to be successful. The first is certainty. This is the most important factor, and requires that sanctions or rewards be applied every time there is an infraction or achievement. Social scientists express this as a ratio with very concrete policy consequences, “for example, if Drug Court clients are sanctioned every time they fail to attend a treatment session, then the ratio of infractions to sanctions would be 1:1 . . . the scientific evidence is unambiguous that the smaller the ratio, the more powerful the effects for initiating a new behavior or stopping an old behavior.”

The second parameter is celerity, the temporal immediacy of the sanction or reward upon an infraction or achievement. Studies have shown increased efficacy the more often the drug court meets, as often as bi-weekly for those with the most serious drug history or anti-social predispositions.

The third parameter is magnitude, or the severity of the punishment or the degree of reward offered for each infraction or achievement. Surprisingly, more is not always better. “Evidence reveals that sanctions tend to be least effective at the lowest and highest magnitudes and most effective in the moderate range.” The most successful Drug Courts have been those that have a wide and creative range of punishments and rewards that allow systematic ratcheting of response to participant behavior rather than the simple options of probation or maximum prison time.

The final parameter is fairness of the process, based on the participant’s perception of how the first three parameters are applied. Perception of fairness depends on whether the participants feel they (a) had a fair opportunity to voice their side of the story, (b) were treated in an equivalent manner to similar people in similar circumstances, and (c) were accorded respect and dignity throughout the process.

Several additional factors have been shown to contribute to the success of drug treatment courts. This includes the amount of communication between the court and

14 Id. at 480.
16 Id. at 321.
17 Id. at 322 (emphasis added).
18 Id. at 322–23.
19 Id. at 324.
the treatment provider and the type of treatment the provider utilizes.\textsuperscript{20} Communication between the court and the treatment provider provides tangible benefits because with enhanced supervision, the participant takes the program more seriously.\textsuperscript{21} Also, the court can detect failures in the program and the individual’s failures early and can hold all parties accountable and better influence the type of treatment needed for the individual.\textsuperscript{22} The type of treatment utilized is also influential, as programs based on cognitive-behavioral psychological principles and programs that address criminal thinking directly are more effective compared with other programs.\textsuperscript{23} We have had the benefit of these lessons learned and incorporated them when we created the Veterans Treatment Court.

2. Mental Health Courts

Drug Courts opened the door to the creation of Mental Health Treatment Courts, which similarly focus on monitoring participants and connecting participants with treatment services tailored to meet their individual needs.\textsuperscript{24} Treatment plans created for participants in these courts must be more individualized and flexible than Drug Courts because of the wide array of mental illnesses.\textsuperscript{25} Since many veterans are suffering from mental illness as a result of their military service, Veterans Treatment Courts are run very much like Mental Health Treatment Courts, with the added support of the VA and veteran mentors.

Like Drug Courts, a Mental Health Court participant is assigned to treatment professionals and a system of sanctions and rewards are available to ensure compliance with the plan, with a focus on good-faith efforts in treatment sessions. Participants are also assigned a case manager or advocate whose primary objective is to coordinate and supervise the treatment plan.\textsuperscript{26} Unlike Drug Courts, where success can be measured simply in length of sobriety, Mental Health Courts either measure the length of time successfully attending treatment or threshold levels of stability.\textsuperscript{27} This requires closer monitoring and the use of more advanced treatment professionals, such as psychologists, to be able to assess the participant’s progress as an individual.

Mental Health Courts have also been very effective at reducing recidivism with those who graduate from the treatment program. For example, the Clark County Court in Nevada has determined that participants were four times less likely to be arrested one year after enrollment in the program compared to the year prior.\textsuperscript{28} A study of the San Francisco mental health court found that “the likelihood of mental health court participants being charged with any new crime was 26% lower . . . and the likelihood of . . . being charged with new violent crimes was 55% lower than that of comparable individuals who

\textsuperscript{20} Wilson, Mitchell & MacKenzie, supra note 14, at 480.
\textsuperscript{21} Id.
\textsuperscript{22} Id.
\textsuperscript{23} Id. at 481.
\textsuperscript{24} Drug Ct. Rev., supra note 10, at 176.
\textsuperscript{25} Id.
\textsuperscript{26} Richard Schneider, Hy Bloom & Mark Heerema, Mental Health Courts: Decriminalizing the Mentally Ill 80 (2007).
\textsuperscript{27} Id. at 83.
\textsuperscript{28} Risdon N. Slate & W. Wesley Johnson, Criminalization of Mental Illness: Crisis and Opportunity For the Justice System 156 (2008).
received treatment as usual.” A North Carolina study similarly showed that “two years after defendants exit the court, the proportion of defendants rearrested and the mean number of re-arrests [was] significantly lower than in the two years before their mental health court entry.” The mental health court participants’ reduced recidivism two years after graduating from the program shows that the staying power of this treatment is significant even after the participants are removed from the supervision of the treatment court.

After evaluating the successes of Drug Court and Mental Health Courts, it was clear that veterans suffering from substance abuse and mental health issues could be helped by an alternative treatment program. Veterans Courts may prove even more successful than Drug or Mental Health Courts because not only do veterans have the proven ability to follow directions and lead a law-abiding lifestyle as proven through their military service, but they have a unique brotherhood and sisterhood with other veterans and the volunteer veteran mentors provide an important network of support to help the veteran succeed in the program – and in life.

B. The Buffalo Veterans Treatment Court —Planning and Creation

Over the years as Operation Iraqi Freedom and Operation Enduring Freedom continued, I noticed more and more veterans were coming through my courtroom, specifically in the Drug and Mental Health Treatment Courts. It became apparent that traditional treatment courts were limited in fully serving the veteran population. Veterans derive from a unique culture and have unique experiences and needs that were not being met. I also noticed that the veterans had positive reactions to the veterans who were working in the court: Jack O’Connor, who served with the Army’s 82nd Airborne, and the late Hank Pirowski, who served as a Marine in Vietnam. When I matched a discouraged veteran with veterans O’Connor and Pirowski, right away after a brief meeting the veteran’s behavior had totally changed. He stood erect and gave more open responses. That’s where we got the idea to set aside a day just for veterans.

1. Building Vital Partnerships

We initially set up a meeting with the VA hospital in Buffalo to see what assistance it could provide. The hospital agreed to place a Behavioral Health Supervisor and a secure VA computer in the courtroom so veterans could immediately be checked for benefit eligibility and clinical appointments could be made on-site. Subsequently, the VA Benefit Affairs Department also placed a Benefit Specialist in court to provide access for veterans to inquire about benefits earned, or to submit claims for benefits earned based on the veterans military service. We also joined together with veterans advocates organizations including Vietnam Veterans of America, Veterans of Foreign Wars, Paralyzed Veterans of America, Order of the Purple Heart, AMVETS, and other organization including W.N.Y. Veterans Project, the Buffalo Police Department, the Buffalo Veteran’s Administration

Veterans Treatment Courts

Health Care System, the Buffalo Criminal Courts, the Buffalo Drug and Mental Health Treatment Courts, Erie County Pre-Trial Services and Court Outreach Unit Referral to Treatment Services (C.O.U.R.T.S. Program). We also recruited mentors, all volunteers and veterans who were dedicated to the support and care of other veterans.

Another important partner is the VA’s Veterans Justice Outreach (VJO) Initiative, whose mission is to reach out to the criminal courts at the same time the criminal courts are beginning to reach out to the VA. The VJO program is tasked with educating the legal system, law enforcement, and jails on unique issues facing today’s veterans. Once veterans enter the legal system, VJO specialists help them avoid unnecessary incarceration through integration into VA substance and mental health treatment programs.

2. Structure of the Buffalo Veterans Treatment Court

The Buffalo Veterans Treatment Court we created is a voluntary program that connects veterans with services that can provide substance abuse, alcoholism and mental health treatment. This treatment is coupled with academic or vocational skills improvement, and active assistance with residential, outpatient and/or transitional services leading to job placement and job retention.

The process identifies veterans upon arrest. The veterans are then assessed for eligibility and referred to the Veterans Treatment Court. Veterans may enter the program at multiple stages of the criminal justice process including pre-disposition, post disposition, and as probation violation cases. Pre-disposition cases are typically dismissed or resolved by a non-criminal disposition upon successful completion of Veterans Treatment Court. Many cases involve veterans that are required to plead guilty to the charges against them but their sentences are stayed pending completion of the program. Upon successful completion, typically they may be allowed to withdraw their plea of guilt and have their charges dismissed or resolved by a non-criminal disposition. Other cases involve participation in Veterans Treatment Court as an alternative to incarceration or re-sentencing to Veterans Treatment Court as a result of a violation of probation. Upon referral to the court, the veterans are then linked with services that meet their individual needs. A VA liaison works with the veterans to obtain releases of information, facilitate linkage for services, and works with the courts to provide status reports regarding the veteran participant’s treatment, results of toxicology reports, appointments, case management and, if need-be, crisis management. The Federal Office of Veterans Benefit Affairs also works with the veterans to ensure he or she is receiving pension or disability, if warranted, and works to correct any errors on the veteran’s Certificate of Release or Discharge from Active Duty, DD-214, which can affect benefit eligibility. The court’s staff and volunteer veteran mentors then assist the veteran with finding an array of stabilization services. This can include obtaining emergency financial assistance, counseling services, employment and skills training, safe housing, and other supportive services. The mentors act as friends to the veteran. They are the participants’ coaches and support throughout the process.

During their time in the treatment court, which is typically between 12 and 18 months, participants come in for regular status hearings. Their treatment plans and conditions of treatment are reviewed and adjusted as necessary. Rewards are offered for adherence to court conditions and, if needed, sanctions are given for non-adherence.
We do not have a scale or chart for how many chances a participant receives before he or she is removed from the program but, instead, situations are evaluated on a case-by-case basis, and look at the participant’s level of commitment to the program. Individuals taking part in this program are going through challenges of mental health issues or addiction issues or both. The program takes patience and courage on behalf of everyone involved, as well as a great amount of oversight. The sanctions and rewards can work to motivate the participants to stay focused on what they need to do to become and remain healthy and sober. Upon successful completion of the program, many will have their records wiped clean.

C. Structuring the Veterans Treatment Courts

There are a significant number of factors to consider when determining how to structure a Veterans Court and various current Veterans Courts have used a number of different models. They vary with respect to types of veterans eligible, types of crimes eligible, procedural posture when entering into the program, and results upon completion of the program.

1. Eligible Offenses

With respect to eligibility, the Buffalo court and many others accept all veterans with a clinical diagnosis of serious and persistent mental health disease, or drug or alcohol addiction. We believe all veterans should be eligible because all veterans deserve special consideration for their willingness to serve and defend their nation. Other courts restrict eligibility to only veterans who have deployed to a combat zone, only veterans who qualify for services at the VHA, or only those with certain mental health or substance abuse diagnoses.

The types of crimes that determine eligibility vary widely, but no Veterans Court accepts very serious violent crimes such as rape or murder. The Buffalo Veterans Treatment Court will hear any non-violent felony or misdemeanor committed by a veteran. These are often charges of driving while intoxicated, theft offenses, or drug possession offenses. Violent offenses are evaluated on a case-by-case basis with the District Attorney’s office. For example, some domestic violence-related issues may be eligible for the Veterans Treatment Court where the spouse and other directly-affected family members are asking for help for the veteran. In determining eligibility for these defendants, it’s a matter of distinguishing those whose behavior has changed related to their service, compared with those with a predisposition for domestic violence. Symptoms associated with injury from combat such as post-traumatic stress disorder or traumatic brain injury can manifest in outbursts of anger. This is wholly separate from those who commit domestic violence prior to entering the service and then continue after they leave.

Other courts take different routes. The Veterans Treatment Court in Los Angeles, for example, only accepts veterans facing felony charges, and others accept violent

32 Id.
offenders with other significant caveats and checks, taking into account such things as
the degree of violence, the offender’s prior record, and the victim’s view.34 Judge Wendy
Lindley of California’s Orange County Combat Veterans Court, which accepts violent
cases other than murder or sexual assault, makes the strong argument that “if our goal
is to protect our communities and make them a safer place, then why wouldn’t we take
cases of violence?”35

2. Incentives
As mentioned above, the Buffalo court requires many participants to plead guilty and
their sentences are stayed pending completion of the program. There is some evidence
that requiring a plea of guilty or no-contest often produces better long-term results. The
participants do better in the system and graduate more often than individuals who are
put into diversionary status.36 It’s a “kind of a stick [because] you know what’s going
to happen to you if you don’t do well.”37 This is consistent with the finding from Drug
Courts, discussed above, that the certainty of a sanction or reward is the most impor-
tant factor in the court’s effectiveness as the veteran-defendant is assured that there is
already a conviction that will be levied upon him or her if they fail in the Veterans Court.38
The difficulty with requiring a guilty plea is that court records on the internet can have
long-standing consequences, even if the charge is eventually dismissed. As a result, oth-
ers believe veterans would be better served in a diversion program, which would have
the added benefit of incentivizing participation in the program since some veterans who
are given the choice between a long, court-ordered treatment program and a jail sen-
tence will opt for the jail sentence.

The result of successful completion of the veterans treatment program ranges from
completely removing the charge from the veteran’s record, as we do in Buffalo, to a
case-by-case determination of a more favorable disposition of the case. In California, for
example, convictions for crimes of violence and driving while intoxicated remain on the
record after graduation whereas in Minnesota participants receive a better disposition
in exchange for their cooperation and success in the program. In some cases this might
result in a complete dismissal, or a lesser charge.39

3. Treatment
No matter which type of Veterans Treatment Court is created, the most important factor
is that participants receive the medical and/or psychological care they require and any
other assistance they need to stay out of trouble and lead productive lives.

34 William H. McMichael, The Battle on the Home Front: Special Courts Turn to Vets to Help Other Vets, ABA
courts_turn_to_vets_to_help_other_vets/.
35 Id.
36 Id.
37 Id.
38 Douglas B. Marlowe, Strategies for Administering Rewards and Sanctions, DRUG COURTS, 317, 319 (James E.
Lessenger & Glade F. Roper, eds., 2007).
39 Mador, supra note 2.
III. RESULTS AND RECIDIVISM

Jack O’Connor, our mentor coordinator, often says that my role is analogous to that of a commanding officer for the veteran participants and the mentors act much like non-commissioned officers who make sure orders are carried out. Military people have proven through their service that they are comfortable with structure, capable of following directions, and their ability to do so provides yet another reason to give them this opportunity. When participants come in for their periodic status reviews, they share with me not only how their treatment is progressing, but also about their employment, their families, and other updates in their lives. One of the participants even brought in an essay he had written for one of his college classes where he received a 97%. He graciously allowed me to keep the essay, which I have to this day. The importance of these personal connections and the work of the mentors with the participants cannot be overestimated. Mentors are, without a doubt, a large part of the reason Veterans Courts and other treatment courts have been so successful.

As of 2011, there have been 71 graduates of the Veterans Treatment Court in Buffalo and, of those, we have had a zero percent recidivism rate. Similarly, the Veterans Treatment Court in San Jose, founded by my friend, Judge Stephen Manley, has had 72 graduates since it started in 2008 and from those, there have only been a handful of new convictions. Nationally, as of late 2011, early statistics showed that 75% of defendants who finish the program are not rearrested for the next two years.\(^\text{40}\) In addition to drastically lowered recidivism rates, graduates of Buffalo’s Veterans Treatment Court have experienced drastic, positive life changes. They are clean and sober and actively addressing any mental-health needs. All of them are either employed or pursuing further education. Many have been able to mend strained relationships with family and friends, and those who were homeless have all been able to attain stable housing.

IV. CHALLENGES OF VETERANS COURTS

Veterans Courts are a work in progress. There are several challenges that face the courts, including those who oppose a separate program for veterans, challenges of obtaining funding, and getting through the “warrior mentality” that many veterans have that causes them to be reluctant to admit they have a problem and hesitant to accept treatment.

A. Policy Challenges

There will always be those who argue that using a collaborative approach for veterans in the criminal justice system is a “get out of jail free” card. But that is not what Veterans Courts do. They provide an alternative to punishment, mandate treatment and close supervision, and hold the veterans to strict requirements. The result is, hopefully, that public safety is increased, the veteran will not re-offend, and he or she can become a functioning member of society instead of continuing to suffer the invisible wounds of war. The program is by no means a free pass for participants. It is a demanding and dif-

\(^{40}\) McMichael, supra note 34.
difficult program. One veteran in the program in Tulsa, Oklahoma, described the processes he is required to follow in the court as “a very hard program.” He undergoes counseling, works with a volunteer veteran mentor, auto-tests for sobriety three times a day, and regularly attends Alcoholics Anonymous meetings.

Detractors also argue that the Veterans Treatment Courts create two different systems. What we have seen, though, is that problem-solving courts are much better equipped to address the issues of these veterans. Most jails and prison do not have the appropriate substance abuse, chemical dependency, and mental health treatment programs to help the problems that plague so many veterans in the criminal justice system. The strongest argument, however, comes from the statistics that show these courts help reduce recidivism, and they help participants lead sober, healthy, and productive lives.

B. Funding Challenges

All courts have budget constraints that limit the number of programs that can be created. Veterans Courts are a wise use of limited state or local funds because they can work to save taxpayers substantial amounts of money. In addition to helping participants turn their lives around, Drug Courts, for example, are proven to save nearly $27 for every dollar invested. Veterans Courts will likely see similar savings from reducing the amount of money spent to keep inmates locked up, as Drug Courts have done in spending an average of one-tenth as much on treatment compared with imprisonment. This is in addition to the fact that untreated mental health problems and addiction can lead to additional crimes, which even further increases costs.

Some courts have found ways to work around a lack of funding. All of the judges who work in Pennsylvania’s Veterans Courts are managing them on top of their current calendar of cases. They, like Buffalo and many other courts, use volunteer mentors to help the effort. For a number of courts the only federal assistance received is from the Veteran’s Administration, which works with the courts to provide mental health treatment, job training and other services.

When addressing funding concerns, perhaps the most important point is that, unlike Drug and Mental Health Courts, in which the local jurisdiction is picking up the tab for their participants’ treatment, the vast majority of Veterans Court participants receive their treatment through the federally-fund VA system. This factor makes Veterans Courts particularly attractive in an area of shrinking state and local budgets.

The impact of creating a Veterans Court on court budgets will vary depending upon the size of the veteran population the court serves, the specific design and components

41 Id.
42 Id.
43 Id.
of the court, and the resources already available or those needed. For example, Buffalo’s Veterans Treatment Court did not have any additional funding to implement the program and to operate its first year. The Buffalo court was able to keep cost relatively minimal during that first year by using existing Drug and Mental-Health Courts staff and resources that were already funded and available. In addition, the peer-mentor program, which is a major component of Buffalo’s Veterans Treatment Court, is staffed completely by volunteers.

Many programs rely in their first year or years on existing funding and resources. Additional resources may be available through the U.S. Department of Justice Adult Drug Court Discretionary Grant Program or a Bureau of Justice Assistance Drug Court grant. The Justice Department’s Bureau of Justice Assistance (BJA) provides money for a five-day team training of court officials by the National Drug Court Institute at one of four mentor court sites—Buffalo, Tulsa, and Orange and Santa Clara counties in California. The Substance Abuse and Mental Health Service Administration (SAMHSA) provides funding for the mentor courts’ administrative training costs and provides travel stipends for one-day training visits.47

The 2010 Veterans Treatment Court Planning Initiative (VTCPI) constitutes the first Veterans Treatment Court training program in the nation. The VTCPI curriculum is a collaborative effort of the BJA, the Department of Veterans Affairs, the National Drug Court Institute (NDCI), and numerous Veterans Treatment Court professionals.48 VTCPI grants have been awarded to many communities and amounts are based on the communities’ veteran populations, problems among these populations, and other factors.

C. Overcoming the “Warrior Mentality”

The “warrior mentality” is a big obstacle to overcome with respect to the veteran’s willingness to seek treatment. Many people who served in the military, especially those from earlier generations, perceive that treatment may be for the weak. We’re working to change that paradigm and teach veterans that it takes courage and strength of a warrior to ask for help. The Veteran Court model provides a community of warriors in which the veteran can be comfortable in overcoming this stigma and their service-related mental health or chemical dependency problems.

V. FUTURE OF VETERANS COURTS

As legislators see the success of Veterans Courts and courts push for their creations, a number of bills have been introduced at the federal and state level to provide funding for them.

A number of states have passed legislation to promote Veterans Treatment Courts or veterans assistance. Colorado, Illinois, Nevada, Texas, and Virginia are examples of states that have passed legislation calling for the statewide establishment of Veterans

47 McMichael, supra note 34.
Treatment Courts. California, Minnesota, and Oregon are among the states that have passed legislation that permits judges to order treatment, instead of prison, for veterans suffering from combat-related mental health disorders.

VI. CONCLUSION

Alternative treatment programs have clearly been proven to work. As more and more Veterans Treatment Courts are established in the United States, veterans will be able to get the individualized treatment they need to address their post-traumatic stress disorder, traumatic brain injury, depression, and substance abuse issues caused by their service. These programs will keep our veterans out of prison and help them regain or remain productive members of society while in the long run saving money for taxpayers and better-protecting public safety.


50 Cal. Penal Code § 1170.9 (West); Minn.Stat. § 609.115, Subd. 10 (2008) (providing for a special process at sentencing if the defendant is a veteran and has been diagnosed as having a mental illness by a qualified psychiatrist); Or. Rev. Stat. Ann. § 135.886(3) (West).
TEN KEY COMPONENTS OF VETERANS TREATMENT COURTS

Veterans Treatment Court is a hybrid Drug and Mental Health Treatment Court. In structuring the Veterans Treatment Court, we have adopted the Department of Justice’s Ten Key Components of Drug Courts, in conjunction with the ten essential elements of Mental Health Courts, with slight modifications:

Key Component #1: Integrate alcohol, drug treatment, and mental health services with justice system case processing. A team approach is required to promote sobriety, recovery, and stability.

Key Component #2: Using a non-adversarial approach, prosecution and defense counsel promote public safety while protecting participants’ due process rights. In Veterans Courts, prosecutor and defense counsel shed their traditional adversarial courtroom relationship and work together as a team.

Key Component #3: Eligible participants are identified early and promptly placed in the Veterans Treatment Court program.

Key Component #4: Veterans Treatment Court provide access to a continuum of alcohol, drug, mental health and other related treatment and rehabilitation services. Many times issues such as mental illness and addiction co-occur with homelessness, unemployment, and family problems. Here, the veteran peer mentors are essential to support the veteran, improving the chances for sobriety and law-abiding behavior.

Key Component #5: Abstinence is monitored by frequent alcohol and other drug testing.

Key Component #6: A coordinated strategy governs Veterans Treatment Court responses to participants’ compliance. Veterans Treatment Court rewards veterans accomplishments, success, and commitment to their program as well as responds to noncompliance.

Key Component #7: Ongoing judicial interaction with each Veteran is essential. Ongoing judicial supervision also communicates to veterans that someone in authority cares about them and is closely watching what they do.

Key Component #8: Monitoring and evaluation measure the achievement of program goals and gauge effectiveness. Management and monitoring systems provide timely and accurate information about program progress. Program monitoring provides oversight and periodic measurements of the program’s performance against its stated goals and objectives. Information and conclusions developed from periodic monitoring reports, process evaluation activities, and longitudinal evaluation studies may be used to modify program

Key Component #9: Continuing interdisciplinary education promotes effective Veterans Treatment Court planning, implementation, and operations. Education and training programs help maintain a high level of professionalism, provide a forum for solidifying relationships among criminal justice, Veteran Administration, veteran volunteer mentors, and treatment personnel, and promote a spirit of commitment and collaboration.

Key Component #10: Forging partnerships among Veterans Treatment Court, Veterans Administration, public agencies, and community-based organizations generates local support and enhances Veteran Treatment Court effectiveness. Because of its unique position in the criminal justice system, Veterans Treatment Court is well suited to develop coalitions among private community-based organizations, public criminal justice agencies, the Veteran Administration, veterans and veterans families support organizations, and alcohol and other drug and mental health treatment delivery systems. Forming such coalitions expands the continuum of services available to Veterans Treatment.
What is Veterans Court?

Veterans Court is a treatment court designed to serve justice involved veterans struggling with addiction/substance abuse issues, mental health issues (such as Post Traumatic Stress Disorder, Traumatic Brain Injury, or other verified Axis 1 diagnosis), and reintegration issues. The Court is in a unique position to assist veterans who have honorably served our country in accessing a support system of government and community based resources in order to regain stability in their lives.

Veterans Court is a structured program that emphasizes accountability and personal responsibility. The Court connects qualifying veterans to services and intensive treatment and support while promoting sobriety, recovery, and stability through the coordinated efforts of the Veterans Court partners. Veterans Court also provides participating veterans the opportunity to benefit from the assistance, support, guidance and encouragement of a fellow veteran peer mentor, while the veteran is involved in the legal process. With a focus on resource coordination and guided rehabilitation, Veterans Court not only offers a chance for justice-involved veterans to conquer problems and to get their lives back on track, but provides the community with an opportunity to give back to the men and women who have offered their lives to protect us, and who often suffer from the devastating emotional wounds of war.

Who Comprises Veterans Court?

Veterans Court is a joint program of the Court of Common Pleas (the Honorable John A. Zottola, Supervising Judge), the District Attorney’s Office, Defense partner Duquesne University’s Veterans Court Clinic (VCC), Adult Probation, the Veterans Administration (VA), Justice Related Services (JRS. Sometimes referred to as forensics—a division of the Allegheny County Department of Human Services). Additionally, Veteran's Leadership Program of Western PA (a non-profit group run by Veterans for Veterans [www.vlpwpa.org]) supports justice involved veterans with counseling, housing, as well as providing financial and other assistance and supports for veterans not eligible for VA services.

How are the cases docketed?

Cases proceed through the normal progression of prosecution and court assignment until such a time as they are accepted and transferred to VC. Once cases are considered acceptable to enter the program, they are transferred to the VC Judge, who presides over every VC case at all stages from acceptance to graduation or closing. The Honorable Judge John A. Zottola presides over all VC cases.
Is VC like ARD?
No. VC is not a ‘diversionary program’ in which a conviction is expunged upon successful completion of the program. A conviction through VC will remain on a person’s record the same as any criminal court conviction. However, the District Attorney’s Office has provided for qualifying cases to be admitted to the ARD program (Accelerated Rehabilitative Disposition program) with the probation supervised through VC. For ARD and joint ARD/VC cases which have been successfully completed and closed, the criminal record of that case is expunged.

What is the process of case referral to Veterans Court?
- ALL Veterans Court referrals must be submitted in writing by completing a Veterans Court Referral Form as well as a Release of Medical Information. The forms may be obtained from any Veterans Court partner—VA, DA, defense partner (VCC), JRS, Veterans Leadership Program—and returned to VA Veterans Justice Outreach specialist as noted on the forms.
- Referral questions also may be answered or referral forms obtained by calling VA VJOs Keather Likins 412-822-1409 or Denise Senft at 412-822-1410; Assistant District Attorney Debra Barnisin Lange at 412-350-5519 or DA VC paralegal Martha Kulic at 412-350-1336; or VC Defense Counsel Dan Kunz, Duquesne University Veterans Court Clinic, 412-396-4704

What are the requirements for a case to enter VC?
The following requirements are the basic elements of VC referral and acceptance (or denial):

- Referral: All referrals to initiate VC consideration must be made using a current VC referral form submitted to the VA contact as indicated on the form. The VA prequalifies all referred individuals for VA services and will initiate or monitor existing support services while the referral is pending. Anyone may refer a case to VC; most referrals come from defense counsels, VA health system partners, and counselors at the jail. However, referrals also have been received from county and state probation officers, police officers, District Attorneys, Judges, doctors, counselors/therapists, psychologists, and social workers, as well as a defendant’s family members or friends. Many veterans initiate their own referral.

- Diagnosis and/or combat deployment: The VA and/or JRS confirm diagnosis information for VC. The VA additionally confirms qualifying military service and combat deployment.

- Assessment: The VJO meets with each veteran referred to perform an assessment which is an attempt to gain an overall view of the veteran’s history and needs.
- Consent: VC is a voluntary program. Veterans who refuse participation will not be forced to enter the program. The VA or defense counsel determines initial consent from a veteran.

- VA and/or JRS approval: When a qualifying diagnosis and/or combat deployment is determined, and veteran has consented to enter the program and is otherwise an appropriate candidate, the referral is placed on a case list that is discussed jointly by the VC referral team which is comprised of the VC District Attorney, the VA VJO, defense partner VCC Supervising Attorney, JRS Supervisor, and VA Benefits representative. VJO rarely rejects cases for MHC, but may share concerns or reservations at the joint discussions.

- Veterans Court Clinic Defense Partner approval: Defense counsels rarely reject cases from VC, but on occasion may choose to do so for a variety of legal or strategic reasons.

- District Attorney approval: The DA must approve each case coming into VC. There is no “right” to VC, and the DA has absolute discretion to accept or reject VC referrals.

What are the current criteria that must be met for a veteran to be considered eligible for Veterans Court?

- Veteran is 18 years or older and a current military member in good standing or a member of the military who was not dishonorably discharged
- Documented qualifying Axis I diagnosis and/or combat deployed veteran.
  - Qualifying diagnosis may include: PTSD, TBI, Schizophrenia, Bipolar Disorder, Major Depressive D/O Psychotic Disorder, or other Axis I disorders on a case by case basis
- Voluntary participation. Veteran must be willing to comply with the program or agree voluntarily to be part of the program once referred
- The victim(s) consented to the case proceeding in VC. Victim consent must be obtained for all relevant cases, including but not limited to assaults, domestic violence, burglary, thefts, etc. In extremely rare circumstances, where case difficulties require, the victim(s) may be asked to appear in court to voice objections or concerns.
- The case(s) allege misdemeanor and/or felony crimes committed in Allegheny County. Summary cases currently are not eligible for supervision
- The facts and circumstances of the case are appropriate and acceptable for VC
- The Sentencing Guidelines are acceptable. Significantly high sentencing guidelines, mandatory sentences, and/or prior significant criminal history, will prevent VC acceptance
- The veteran has a pending criminal case; the veteran has not entered a plea or been convicted subsequent to trial. For certain appropriate cases, the court may
agree to assume supervision of veterans on cases which were previously resolved outside of VC. This exception may not be used to circumvent admission protocols. A veteran who has probation/parole matters pending in addition to an open, pending criminal case will not block acceptance into VC.

What criteria will prohibit referral to, and/or render a veteran ineligible for, Veterans Court?

- Veteran has a federal, state or out-of-county detainer.
- Veteran is current fugitive—has out of county warrant, bond forfeiture, or otherwise MIA
- Veteran is or will be subject to Megan’s Law/Sorna reporting on current or referred case
- Victim is a juvenile
- Veteran demands a jury trial
- Objection by Victim, Law Enforcement Officer, VC Team member, or other interested party
- Indirect Criminal Contempt Matters (PFA)
- Veteran refused services (VC is a voluntary program)
- Sentencing guidelines and/or mandatory sentences require State incarceration
- Criminal charges/facts of case are unacceptable per VC protocols, and/or would require supervision restrictions (see below)
- Veteran is charged with serious, violent, and/or excluded crimes and/or has a history of violence. Many Felony 1 cases are never acceptable to VC, including but not limited to charges such as Homicide, Attempted Homicide, Sex Offenses, Kidnapping, and crimes committed with a deadly weapon and/or causing serious bodily injury. However, while certain subsections of charges such as Robbery, Burglary, Aggravated Assault, Arson, and other felonies are prohibited from VC consideration, other subsections which may involve lesser degrees of force are examined on a case-by-case basis. The specific facts of the case and the totality of the circumstances play an important role in the decision-making process.
- Veteran has previously unsuccessfully been closed or removed from VC

What about gun cases?
Serious gun charges and/or cases where a firearm was used in the commission of a crime are generally not admissible to VC. But the specific facts of the case and the totality of the circumstances play an important role in the decision-making process. For example, an exception may be made for certain circumstances, such as a case where a defendant is charged with a crime involving the presence or use of a firearm but the facts of the case indicate the actor may have been attempting to hurt themselves or commit suicide without endangering the lives or welfare of others. The District Attorney’s Office reviews each case on a case by case basis and retains absolute discretion regarding the admissibility or inadmissibility of those cases. In those limited circumstances, the specific facts of the case and the totality of the circumstances play an important role in the decision-making process.
What can a veteran expect to occur subsequent to sentencing in Veterans Court, in terms of supervision and compliance with the program and the individual's sentence?

Conditions of acceptance and/or sentence which become conditions of Probation and Veterans service plan may include but are not limited to requirements such as:

- Comply with the individualized service plan developed by VA Veterans Justice Outreach (VJO) or JRS specialist, which may include any number of programs available for, and specifically tailored to, veterans. Additionally a VJO treatment plan may provide for VA housing or residential programs at a VA facility. Veteran must sign all medical, mental health, or other consent and/or authorization forms as required for all treatment or programs.

- Demonstrate decorum and respect at all times towards the Court, Veterans Court team members and participants, and all fellow Veterans.

- Compliance with all treatment, appointments, and medication.

- Comply with Drug and Alcohol testing. Use of alcohol, illegal drugs, or other substances is strictly prohibited, as is abuse of prescribed medications.

- Live at the reported and agreed upon address. Current address information must be maintained with the court, probation, VJO, and defense counsel. The veteran must seek court and probation/VJO prior to any proposed change in address.

- Maintain regular contact with Probation and VJO or JRS.

- Maintain regular contact with Veteran Peer Mentor, and/or other sponsor.


- Must take prescribed medications (periodically, if medication is refused, court will order injectable medication, or request that medication be administered in the courtroom).

- No contact/no violent contact with victim(s), witnesses, or prohibited places.

- Make regular, good faith payments towards Restitution.

- Narcotics Anonymous/Alcoholics Anonymous (NA/AA) meeting attendance, Anger Management, Parenting Classes, Batterers Intervention Classes.

- Any other course of treatment as determined by the Court, or as requested by the ADA, defense, VA, JRS, and/or Probation Officer and set by the Court.

- Obey all laws of the Commonwealth of Pennsylvania.
How is VC different from regular court?

The main elements distinguishing a VC case from a regular case is sentencing, supervision, and the availability of support and peer mentoring.

- **Sentencing:** The Court may fashion a sentence, or the VC DA may offer a plea agreement, which is designed to allow the veteran to begin treatment and intensive supervision by being released from or remaining out of jail. Whether the sentence imposed is for county jail time, probation, or a combination of both, an incarcerated veteran is generally immediately paroled to commence treatment with the condition that they be released only to their caseworker or their designated treatment program. Sentencing options include electronic monitoring, placement in a treatment program, or placement in appropriate housing with court ordered intensive outpatient treatment.

- **VA VJO specialist:** All VC participants are assigned a Veterans Justice Outreach (VJO) representative from the VA who will serve as a caseworker throughout their time in VC. VJOS are responsible for a very wide variety of activities including the formulation of a service plan, assisting with treatment and supervision recommendations, suggesting a peer mentor, and assisting the veteran with benefits and housing, and reporting veterans’ progress to the court among other responsibilities.

- **Service plan:** All veterans are required to sign and comply with a service plan. A service plan is a written contract between the defendant and the court which outlines the specifics of their treatment and supervision in VC. Service plans may be subject to modifications throughout a veteran’s supervision depending on the veterans needs and supervision requirements. Service plans are tailored specifically to address each veteran’s needs and requirements (i.e. where they will commence treatment, where they will reside, etc.) and will include certain standard language that is common to all service plans for veterans in VC.

- **Reviews:** Unlike other court cases, veterans are required to attend reviews in court throughout their participation to monitor their progress. Based on the totality of circumstances, reviews are classified as positive, negative, or neutral. Please refer to further review description in the Phases section below.

- **Specially assigned probation officer:** Allegheny County has a Probation Supervisor and specially trained probation officers who supervise veterans in VC. These officers attend each court session personally (as opposed to a probation liaison) and report on a client’s progress and compliance with VC.

- **Veterans Mentor:** Veteran may choose to benefit from the additional support of a specially trained mentor.
What is the progression of events when a case is referred, accepted, sentenced and monitored in Veterans Court?

♦ **REFFERAL, ACCEPTANCE, AND ADMISSION TO THE COURT.** The VA assesses all referrals to VC to determine if the Veteran has qualifying military service, Axis I diagnosis and/or combat deployment, as well as gauge Veteran’s interest in VC participation. If Veteran has qualifying military service but does not qualify for VA benefits, the service plan/treatment side of the case will be referred to JRS/OBH, and a letter of VA non-coverage of the individual will be provided.

♦ Veteran’s consent to the program is verified. Consent is an essential initial determination, as VC is not only a voluntary program, but participants fare poorly when not predisposed to cooperating with the program (conversely, those who choose to participate in the court and subsequently refuse to cooperate can be, and have been, removed from the program with probation revoked and defendant resentenced).

♦ VA or JRS/OBH begins support and preliminary treatment or placement referral to stabilize defendant during the VC acceptance process and prior to the plea/trial date

♦ A referral meeting is held at a minimum of once a month where the VA (VJO), VC District Attorney (DA), VC Defense partner (VCC), VC JRS/OBH, a VLP representatives, and a VA Benefits specialist review the case and make a determination as to whether the case will be accepted into VC (based on the stated eligibility criteria)

♦ The Defendant and/or defendant’s attorney are informed of the acceptance/rejection of the case by a member of the VC Team

♦ Cases generally enter VC by a negotiated plea or general plea. Jury trials are not permitted in VC due to the volume of cases, and time and docketing restraints. In extremely limited, previously agreed upon cases, a non-jury or stipulated non-jury may be approved, however, the overwhelming majority of cases accepted into MHC are resolved through plea agreements.

♦ After a veteran pleads/is convicted VC and sentenced into the program, he/she will receive a subpoena for the first Reinforcement Hearing Date and will be assigned a Probation Officer, as well as a VC Mentor.
**SENTENCING.** VC sentencing parameters are set with the understanding that for veterans who do well and demonstrate insight, compliance, and success in the program, will be graduated and the have supervision closed early. In order to have a sufficient portion of the sentence served and as incentive for a defendant to excel in VC, defendants are offered ‘graduation’ from the program and early termination of the probation upon successful completion of approximately 50-70% of their probation if fully compliant.

Range of sentences imposed in VC are generally in the range of, but are not limited to: a) the longest sentence imposed of 11 ½ to 23 months county jail plus 5 years probation, and b) the shortest sentence imposed of 2 years probation. Jail sentences are capped at 11 ½ - 23 months because a sentence of 1-2 years must be served at the state penitentiary; defendants so incarcerated would not be eligible for Electronic Monitoring or other forms of treatment release.

Sentences that include a period of county incarceration are granted credit for time served and paroled immediately to Electronic Monitoring, a designated program, treatment plus housing placement, and/or the veteran’s individualized service plan. Generally, for any potential Veterans Court participant, once their case is deemed acceptable for admission to the court, it is preferred that a service plan is generated as soon as possible so that the veteran may be released from incarceration to one of the treatment and supervision methods described above.

**PHASES.** Once sentence is imposed, the veteran is expected to graduate through three distinct phases of Veterans Court, which have been defined as Honor, Courage, and Commitment. Veterans progress through these three phases by demonstrating insight, and by complying with program and phase requirements, including all conditions of their individualized service plan. As a veteran demonstrates success in each phase, their supervision is reduced in terms of reporting to the court for reviews, probation restrictions, as well as other requirements of supervision and their individualized program. Success by the veteran in completing each phase of the program is recognized by the issuance of a dog tag engraved with the phase name, Honor, Courage, and Commitment, representing successful completion of that phase. Successful completion of all phases entitles the veteran to eligibility for graduation from the program.

**HONOR.** Phase 1 of the court is dedicated to orientation of the veteran to their treatment, the program, the VC Team, and the Court. The Veteran is expected to demonstrate understanding of his/her individualized plan, expectations of the court, and full compliance with all requirements. Veteran is required to report to court bi-monthly during this period, and to probation, treatment, and other requested programs as frequently as directed.
COURAGE. Phase 2 of the court is dedicated to the veteran establishing consistency and reliability, while gaining insight into establishing new, appropriate responses to old behaviors. This phase is marked by decreased reporting and requirements if veteran is fully compliant. Veteran is required to report monthly during this period.

COMMITMENT. Phase 3 of the court is dedicated to the veteran demonstrating increased independence, insight, responsibility, and personal growth in the months prior to completion of the program. The veteran will report to the court every other month if fully compliant, with other reporting requirements such as probation and VJO contact stepped down as well.

Veterans successfully completing all three program phases earn graduation and early termination of court supervision and sentence.

♦ SUPERVISION OF SENTENCE DURING PHASES. The veteran is to be closely supervised by the VC Probation Officer, monitored by VJO or JRS, and will be subject to reporting requirements and random drug and alcohol screening. The Probation Officer will monitor the case until the defendant graduates, is closed out, or the probation expires.

♦ Veterans who are compliant will successfully graduate through the phases and move towards graduation as outlined above. Veterans who are not compliant or doing well in the program, who are testing positive for drugs on random testing, and/or are not complying with their service plan, receive increased reporting to the court (reviews), are subject to increased reporting to probation and VA or JRS/behavioral health support, and may have other sanctions or restrictions placed on them. They will not be graduated from their current phase of the program until they have demonstrated insight, personal responsibility, and consistent compliance.

♦ During the course of a veteran’s supervision, the VC team members are expected to keep the court and the VC team apprised of an individual’s progress by email (we use an email tree, so all team members get all status updates on all defendants). Team members are required to give status updates if a veteran is not doing well or is non-compliant. The VC team then addresses the situation with an ‘emergency review’ before the court. Veterans who are doing poorly or not complying will incur increased reporting to probation or the court, plus additional drug testing and other relevant sanctions.
If the Veteran violates their sentence or fails to follow the Service Plan, they may be ordered to appear for an Emergency Review hearing during which sanctions may include:

- Increased reporting to probation
- Increased random drug and alcohol testing
- Veteran may be sent to jail for an afternoon or may remain incarcerated for longer periods up to several months depending on the severity of the violation
- Veteran may be remanded to an inpatient treatment program
- Veteran may be placed on Electronic Monitoring
- Veteran may have the current probationary period revoked, and an extended period imposed
- Veteran may incur a curfew or loss of liberties

Once an individual is sufficiently compliant again, reporting is stepped down as described above, and the veteran is back on track to move forward in their phase of the program and towards graduation.

Incarceration of VC participants is not preferred, and veterans generally are remanded to jail only as a last resort attempt to conform their behavior to VC requirements and the individual’s service plan. Veterans who are incarcerated typically fall into these categories:

- The veteran’s drug / alcohol use or mental condition is so severe that the judge fears for their life or the safety of the community. This swift intervention is more preventive than punitive. Generally, as soon as a treatment plan is developed, the defendant is released to an appropriate program. If a veteran’s mental condition is serious the Judge may order them to Torrance State Hospital for treatment.
- The veteran is MIA, not reporting as required to probation, not staying in contact with JRS, not reporting to Court for reviews, etc. A warrant is issued for said veteran. Once picked up on the warrant, they will be transported to court for the next available review. Inquiry is made regarding their non-compliance, and the VA or JRS is consulted regarding appropriate treatment. Veteran is usually released from jail into an appropriate program.
- The veteran engages in undesired behavior ear-marked by deceitful, manipulative, or uncivil behavior toward the court. These veterans are often remanded to the jail for a short period of time (a week or less), and then immediately brought back to court to answer for their actions. Veterans are not told how long they will remain at the jail.
- The veteran is continually and substantially non-compliant with the terms of their service plan, demonstrates no improvement, and demonstrates no desire to improve. The Judge may remove them from VC, revoke their probation, and resentence them to county or state time. On occasion, the Court simply removes them from VC and closes interest in their case.
This may be because the veteran has already served a significant amount of time in jail, because they have numerous pending charges and are looking at time on those cases, and/or the veteran has been given a significant sentence by another judge.

♦ The veteran may be revoked and removed from the Program if failing to comply and show amenability to treatment. Veterans who do not do well generally do the entire term of their sentence and have their supervision closed out. A veteran who does not comply after repeated attempts to work with them have failed may additionally be removed from the program and resentenced out of the court (sentence revoked, and a new sentence entered in the same manner as a probation violation).

♦ GRADUATION. Veteran may graduate early if doing well and stabilized, but under no circumstances prior to serving one half to two thirds of their probationary sentence. As an incentive for a veteran to excel in VC, veterans are offered ‘graduation’ from the program and early termination of the sentence upon successful completion of a minimum of 50% to 70% of their probation if fully compliant.

♦ Most VC participants will be with the court for no more than one to two years supervision. Because most of the participants are dual diagnosis with drug and alcohol problems, VC prefers not to take cases where supervision would be less than two years because that is insufficient time to work with a participant and to anticipate at least one relapse. If the participant does well, the judge in his discretion may determine that the defendant will only serve one half or one year of that sentence (50% as described above), but if a defendant does poorly, has not been amenable to treatment, or has not followed the court’s supervision and reporting requirements, VC will have a minimum of at least two years supervision.

♦ Upon motion of any VC team member, and successful completion of all three court phases, plus no less than one half to two thirds of a veteran’s sentence, the Court, in its discretion, may graduate them from VC, and sign an order formally closing the veteran’s case(s) and supervision. Proposed graduations are always discussed ahead of time among the team, with the Court making the final decision on graduation.

♦ Veterans Court has established a tradition of scheduling all veterans in the program to attend the Court’s yearly Veterans Court Graduation Ceremony held on the Thursday prior to Veterans Day in November of each year. The graduate is offered an opportunity to express their thoughts about their Veterans Court experience and successes. Graduations are well received by the other court participants, guests and dignitaries, and are cause for celebration, applause, and
congratulations in the courtroom. Many successful Veterans Court candidates prefer to wait until that date to be graduated from the program, which is celebrated with a formal and inspirational program attended by notable speakers, Federal, State, and Local Dignitaries, and Military guests and Color Guard. Each graduate is given a military style “challenge coin” which carries special significance and meaning for military men and women, and identifies their substantial accomplishment in successfully completing the Veterans Court program.
Allegheny County Veterans Court Team Contact Information

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, Executive Director, and Mike Bodis, Veterans Criminal Justice Coordinator
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Who may be eligible for Veterans Court?
• An adult charged with a misdemeanor and/or felony in Allegheny County who is a veteran or active in the military and who has a mental health diagnosis (including traumatic brain injury) or co-occurring disorder

Who is not eligible for Veterans Court?
• Defendants charged with Homicide, Sexual offenses, serious Felony 1 cases on a case by case basis
• Defendants requesting a jury trial
• Defendants with an out of county or state detainer, or who have only probation violation cases

► Cases of aggravated assault, burglary, robbery and VUFA, and situations involving a dishonorable discharge from the military will be reviewed on a case-by-case basis.

For use by VA Staff Only: □ Eligible for VA Services
□ Not Eligible for VA Services

Rev. 3/11/11
REQUEST FOR AND AUTHORIZATION TO RELEASE MEDICAL RECORDS OR HEALTH INFORMATION

TO: DEPARTMENT OF VETERANS AFFAIRS (First or type name and address of health care facility)

VA Pittsburgh Healthcare (VJO)
University Drive C
Pittsburgh PA 15240

PATIENT NAME (Last, First, Middle Initial)

SOCIAL SECURITY NUMBER

NAME AND ADDRESS OF ORGANIZATION, INDIVIDUAL OR TITLE OF INDIVIDUAL TO WHOM INFORMATION IS TO BE RELEASED

Allegheny County Courts And Related Justice Services & VA Justice Outreach Consent to Participate.

VETERAN’S REQUEST: I request and authorize Department of Veterans Affairs to release the information specified below to the organization, or individual named on this request. I understand that the information to be released includes information regarding the following condition(s):

☐ Drug Abuse ☐ Alcoholism or Alcohol Abuse ☐ Testing for or Infection with Human Immunodeficiency Virus (HIV) ☐ Sickle Cell Anemia

INFORMATION REQUESTED (Check applicable box(es) and state the extent or nature of the information to be disclosed, giving the dates or approximate dates covered by each)

☐ Copy of Hospital Summary ☐ Copy of Outpatient Treatment Note(s) ☒ Other (Specify)

Eligibility, Attendance, Progress, Treatment Plan, Testing, Discharge Plans

PURPOSE(S) OR NEED FOR WHICH THE INFORMATION IS TO BE USED BY INDIVIDUAL TO WHOM INFORMATION IS TO BE RELEASED

For VA Justice Outreach & Allegheny County Justice Diversion

NOTE: ADDITIONAL ITEMS OF INFORMATION DESIRED MAY BE LISTED ON THE BACK OF THIS FORM

AUTHORIZATION: I certify that this request has been made freely, voluntarily and without coercion and that the information given above is accurate and complete to the best of my knowledge. I understand that I will receive a copy of this form after I sign it. I may revoke this authorization, in writing, at any time except to the extent that action has already been taken to comply with it. Written revocation is effective upon receipt by the Release of Information Unit at the facility housing the records. Redisclosure of my medical records by those receiving the above authorized information may be accomplished without my further written authorization and may no longer be protected. Without my express revocation, the authorization will automatically expire: (1) upon satisfaction of the need for disclosure; (2) on (date supplied by patient); (3) under the following condition(s):

I understand that the VA health care practitioner’s opinions and statements are not official VA decisions regarding whether I will receive other VA benefits or, if I receive VA benefits, their amount. They may, however, be considered with other evidence when these decisions are made at a VA Regional Office that specializes in benefit decisions.

DATE

SIGNATURE OF PATIENT OR PERSON AUTHORIZED TO SIGN FOR PATIENT (Attach authority to sign, e.g., POA)

FOR VA USE ONLY

IMPRINT PATIENT DATA CARD (or enter Name, Address, Social Security Number)

TYPE AND EXTENT OF MATERIAL RELEASED

DATE RELEASED

RELEASED BY

VA FORM 10-5345

USE EXISTING STOCK OF VA FORM 10-5345, DATED NOV 2004.

MAY 2005

10-5345

Use existing stock of VA Form 10-5345, Dated Nov 2004.
Veterans Treatment Courts: What Makes Them Different…?
Judge Robert Russell with Caroline Cooper
Introduction

- What Makes them Different
- Why Veterans Treatment Courts
- The Planning
- The Operation
- Special Issues for Court Clerks
What Makes them Different

- The Participants prior experiences are different,
- The array of services are expanded, specific and catered to Veterans,
- The addition of Volunteer Veteran Mentors to Treatment Court Operations.
PART I

♦ Why Veterans Treatment Courts
“The willingness with which our young people are likely to serve in any war, no matter how justified, shall be directly proportional to how they perceive the Veterans of earlier wars were treated and appreciated by their nation.”

President George Washington
Buffalo’s Experience: Veterans Treatment Court

- Treatment Court Background-Drug & Mental Health Courts
- Veterans seen in Treatment Courts
- Facilitation by fellow Veterans
- Visit to Buffalo Veterans Hospital Advisory Board, (WNY) V.A. Director Michael Finnegan
- Community forums with Veterans Health Care, the Court and Community Behavioral Health Care Providers-Keynote Speaker Deputy Under Secretary William Feeley
A specialized criminal court docket

- Established to address the needs of veteran-defendants with substance dependency and/or mental illness issues
- Majority non-violent felony or misdemeanor offenses (violent offenses: case by case)
- Substitution of treatment problem solving model for traditional court processing
KEY COMPONENTS

Key Components adapted from Drug Treatment and Mental Health Treatment Courts
Unique Components

- Court entirely of Veterans
- Veterans Health Care Worker(s) & Services
- Veteran Mentors
- Therapeutic Environment
- Hybrid Drug & Mental Health Court
Non-Traditional Resources - Veterans Treatment Courts -

- U.S. Department of Veterans Affairs
- U.S. Department of Labor
- State Departments of Veterans Affairs
- Veterans Service Organizations
V.A. Health Care Worker

- Veterans Justice Outreach, (VJO) Liaison
- Obtaining VA Releases of Information
- Facilitating VA linkages for services
- Coordinating and providing VA status report regarding Tx, toxs, appointments, etc.
- Case management & crisis management
Veteran Service Representatives (VBA)
Liaison
Obtaining VA Releases of Information
Facilitate processing or review of Pension Disability Benefits
Process review of potential errors or corrections on veterans DD214
Why Veterans Treatment Courts?

Affording the best opportunity for success

And...........
Era of Service Impact on VTC Participation?

- World War II (1941-1945)
- Korean War (1950-1953)
- Vietnam (1959-1975)
- Operation Urgent Fury – Granada (1983)
- Operation Just Cause - Panama (1988-1990)
- Operation Enduring Freedom - Afghanistan (2001-present)
Vietnam

- Stigma of war
- Not welcomed home
- Not given benefits
- Long history of substance abuse and mental illness
- Homelessness
- Different triggers for PTSD because the war was in a non-urban environment
Wars in Iraq & Afghanistan

- Welcomed home
- More benefits
- Improvements in medical care to treat TBI & other injuries
- Multiple deployments
- Enlisted vs. National Guard
- Triggers for PTSD because of the urban environment (Iraq)
Post-9/11 Veterans: Who are they?
Post-9/11 Veterans: Who are they?

- Over 2 million deployed to the Global War on Terror (GWOT)
- 810,000 have deployed more than once to Operations Enduring and Iraqi Freedom (OEF/OIF)
- Over 1 million currently separated from active duty AND eligible for VA services
Reserve and National Guard

- 254,000 Reservists and 332,000 National Guard members have deployed to OEF/OIF
- Increased stress on families, employment, and housing
Special Issues for National Guard & Reservists

- Multiple deployments
- Lack of formal base support
- Others?
Combat Experience (OEF/OIF)

- 78% Received incoming artillery, rocket or mortar fire
- 72% Knew someone seriously injured or killed
- 60% Saw dead bodies or human remains
- 58% Received small arms fire
- 56% Had a member of their unit become a casualty
- 49% Saw dead or seriously injured Americans
- 33% Handled or uncovered human remains
Post Traumatic Stress Disorder (PTSD)

- An anxiety disorder caused by a traumatic event (e.g., combat, disasters, terrorism, serious accidents, or physical or sexual assault)

- Includes 3 types of symptoms:
  1. Re-experiencing or reliving the trauma, such as having flashbacks, nightmares, or becoming very upset when reminded of the trauma
  2. Avoiding places or people because they remind one of the trauma, isolating from others, and/or feeling numb
  3. Increased arousal, such as feeling on guard, being irritable, having trouble sleeping or startling easily.

- Symptoms may lead to problems in functioning in social or family life, work, and school.
Combat-Related Traumatic Brain Injury (TBI)

- By definition, a TBI occurs when a force or blow occurs to the head causing a temporary or longer disruption in brain activity. Most TBI’s are mild (concussion) and the person recovers fully after a few days of rest. Fewer injuries are moderate or severe.

- VHA screens all OIF/OEF/OND Veterans for exposure to TBI. If a screen is positive for possible exposure, a comprehensive work-up is completed. All Vas use the same screening and comprehensive templates.
Homelessness

- Veterans twice as likely to become homeless as non-Veterans
- Criminal involvement is single best predictor of future homelessness
1 in 4 homeless are veterans

In 2006, nearly a half million U.S. veterans spent some time homeless.

- 0-500
- 500-1,000
- 1,000-3,000
- 3,000-10,000
- 10,000-50,000
- California has nearly 50,000, the most of all states

Percentage of homeless

- Veterans 26%
- Other 74%

Source: National Alliance to End Homelessness AP
Unemployment

- In 2008, 18% of recently separated Veterans were unemployed.
- In 2009, Male Veterans, aged 18-24, unemployment rate was 21.6%
Military Sexual Trauma (MST)

- Both sexual harassment and sexual assault that occurs in military settings.
- 60% of women with Military Sexual Trauma also suffered from PTSD.
Women Veterans

- 15% of today’s military
- Over 235,000 served in OEF/OIF
- 12%-16% are single parents
- Approximately 10% of homeless Veterans < 45
- 2 times more likely to become homeless than non-Veteran women
Special Issues for Women

- Leaving children at home
- Possibility of MST – military sexual trauma
- Not accessing veterans’ benefits
- Female health issues
Veteran Suicides 1999 to 2010

- 22 deaths per day
- 70% over the age of 50.
- More active duty soldiers die from suicide than combat.

U.S. Dept. of Veteran Affairs
Military Culture

Veterans are used to:

- Structure
- Leadership
- Loyalty
- Patriotism
- Camaraderie
- Teamwork & Self-reliance
Strength or Barrier

- How do the values of the armed forces act as a strength in the court?
- How do the values of the armed forces act as a barrier to participation in court?
Challenge

Overcoming “Warrior mentality”
Veteran Mentors
To the world you may be one person.
To one person you may be the world.
Veteran Mentors’ Motto

“Leave no one behind”
Veteran Mentors’ Role

- Coach
- Facilitator
- Advisor
- Sponsor
- Support
“...To care for him who shall borne the battle and for his widow, and his orphan ....”

President Abraham Lincoln
The Planning
Planning

- Whose at the table?
- Inclusion for maximum benefit and buy in
- Working Committee to achieve goals
Planning (Cont.)

- Whose are target population?
- How do we identify this Veteran target population?
- How do we get the cases sent to Veterans Treatment Court?
- The Gatekeeper: Sole or group consensus
- What’s the carrot or benefit to Veterans participating in Veterans Treatment Court?
Differing VTC Approaches

- Substance Abuse and/or Mental Health
- Substance Abuse and/or Mental Health related to military service
- Current and returning OEF/OIF Veterans (as prevention target)
- Honorable or General discharged Veterans only (i.e., eligible for VHA services)
- All Veterans irrespective of discharge status
- Combat Veterans
- Violent offenders (to include Domestic Violence) not normally accepted in other treatment courts
- Reserve, National Guard or Active Duty military
- Accepting Veterans immediate family member
IDENTIFYING YOUR VETERAN

How many of those who have served in the Armed Forces (or are still serving) are in your local, criminal justice system?
Identifying your Veterans

♦ Ask the right question
  – *Have you ever served in the United States Armed Forces (to include the Army, Navy, Air Force, Marine Corps, or Coast Guard; Active duty, Reserves, or National Guard)?*

♦ Ask early, ask often
  – Initial law enforcement contact all the way through sentencing
  – Screen existing treatment court clients
  – Some Veterans will not self-identify
Capacity

How many persons can you serve?
- Court Capacity?
- Treatment Capacity?
- Political Capacity?
- Capacity to help?
Policy Considerations:

- Felons/Misdemeanors? Both?
- Residency?
- Drug Motivated Crimes?
- Level of AOD Involvement (Addiction)?
- Mental Health?
- Co-Occurring – Substance Abuse and Mental Health Issues?
- Domestic Violence?
- Weapon Possession?
ISSUE: What is the legal status of someone placed into Veteran Treatment Court?
Models

- Pre Plea
- Revocable Plea
- Post Plea
  - Deferred Sentencing
  - Probation
- Probation Revocation
- Combination of the above
Buffalo Veterans Treatment Court
Judge Robert T. Russell
rrussell@nycourts.gov
Jack O'Connor,
Veteran Mentor Coordinator
716-858-7345
OCONNORJ@ERIE.GOV
www.buffaloveteranscourt.org
Special Issues for Court Clerks

- Staffing
- Data Collection
- Accommodating Court special needs
- Case dispositions
- Maintaining Confidentiality of privileged records
Veterans Treatment Courts Developing Throughout the Nation

Hon. Robert T. Russell
Acting Judge, Erie County Court, Buffalo, New York

A growing number of veterans, with a history of serious mental illness or substance abuse, have been appearing in courts. Over the past year courts across the nation have begun developing and implementing veterans treatment courts to help veterans get their lives back on track.

The first specialized veterans treatment court began operation in January 2008 in Buffalo, New York (Lewis, 2008; Daneman, 2008; Thompson, 2008). To date, there are eight veterans treatment courts in operation: Buffalo and Rochester, New York; Orange, Santa Clara, and San Bernardino counties, California; Tulsa, Oklahoma; Anchorage, Alaska; and Madison County, Illinois. In addition, more courts and states have expressed interest in developing their own veterans treatment courts and are in various stages of developing programs (Marek, 2008; Riccardi, 2009).

The Need
The advent of veterans treatment court came about as a response to a growing number of veterans on court dockets with serious mental-health and substance-abuse issues. Estimates indicate that, as of October 2008, the U.S. veterans’ population was 23,442,000 (National Center for Veterans Analysis and Statistics, 2008). Of those, 84,000 have already been diagnosed with Post-Traumatic Stress Disorder, or PTSD (Maimon, 2008). This does not account for the numbers of veterans with PTSD or other serious mental-health problems that remain undiagnosed. Research indicated that the actual number of veterans with PTSD or major depression is around 300,000 (Maimon, 2008). In regard to substance abuse, research indicates that in 2001 alone, 256,000 veterans needed treatment for illicit drug use; however, a mere 20 percent of those veterans had received treatment (Office of Applied Studies, 2002). In addition, many of these veterans are facing other issues that further compound the problem, including unemployment, strained relationships, and homelessness (Tanielian and Jaycox, 2008).

Either because of, or in addition to, these untreated diseases and compounded social issues, more and more veterans are processed through the criminal-justice system. Conservative estimates are that veterans currently make up about 12 percent of individuals in prisons and jails, and the 2000 Bureau of Justice Statistics report (cited in Department of Veterans Affairs, 2006) indicates significant rates of mental illness, substance abuse, and homelessness among veterans in the criminal-justice system. The first veterans court in Buffalo was a response to the growing number of veterans appearing on their mental-health and drug-treatment-court dockets. It became apparent that these traditional treatment courts were limited in fully serving the veteran population. Veterans derive from a unique culture, with unique experiences and needs. Research has found that traditional community services may not be suited to address these needs adequately and that veterans benefit from treatment provided by people who “are knowledgeable about and able to empathize with the military experience” (Department of Defense Task Force, 2007). Our experience also was that veterans tended to respond more favorably to other veterans in the court. As veterans are a unique population with unique needs, a unique program was needed; thus, the advent of a specialized veterans treatment court.

How Veteran Treatment Courts Operate—Buffalo’s Experience
Veterans treatment court is a hybrid of drug and mental-health treatment courts. Drug treatment courts typically accept individuals into their program who have
a primary diagnosis of substance dependency, and although they work with individuals who have a dual diagnosis of mental illness, they generally exclude those who have a serious and persistent mental-health disease. By comparison, mental-health treatment courts generally accept only those individuals who have a serious and persistent mental-health diagnosis. Buffalo’s veterans treatment court accepts veterans who have a clinical diagnosis of serious and persistent mental-health disease and those with a primary diagnosis of substance dependency. The veterans treatment court adheres to the basic principles of treatment courts as defined in the “Ten Key Components” by the National Association of Drug Court Professionals and the U.S. Department of Justice, and in conjunction with the Ten Essential Elements of Mental Health Courts (NADCP, 1997; Thompson, Osher, and Tomasini-JoshilIproving, 2008).

Modifications were made to these essential elements and components to tailor them to better meet the unique needs of veterans.

Many veterans are known to have a warrior’s mentality and often do not address their treatment needs for physical and psychological health care. Many are homeless, unemployed, helpless, and in despair, suffering from alcohol or drug addiction, and others from serious mental illnesses. Their lives have been spiraling out of control. To assist with the veterans treatment court’s development and operation, the court assembled a coalition of professionals, including the Veterans Administration Health Care Network, Veterans Benefits Administration, the Western New York Veterans Project, the Veterans Treatment Court staff and team, volunteer veteran mentors, and various community health-care providers.

Eligible veterans for the court are identified using evidence-based screening and assessments and are then given the option to participate in the program. They have been assessed as having a clinical diagnosis of substance dependency or abuse, a clinical diagnosis of a mental-health disease, or both. These veterans, who are also charged with committing typically nonviolent felony or misdemeanor offenses, are diverted from the traditional criminal court to the specialized veterans treatment court. The treatment court program provides the veterans with the tools to manage their psychological, dependency, and social issues and to lead productive, law-abiding lives. The mission of veterans treatment court is to successfully habilitate veterans.

After eligible veterans are identified, assessed, and referred to the veterans treatment court, they are then linked with a program of services fashioned to meet their individual needs. The court’s staff and volunteer veteran mentors assist the veteran with an array of stabilization services, such as emergency financial assistance, mental-health/trauma counseling, employment and skills training, safe housing, advocacy, and other supportive services. At regular status hearings, treatment plans and other conditions are periodically reviewed for appropriateness, incentives are offered to reward adherence to court conditions, and sanctions for nonadherence are handed down. Completion of the program is defined according to specific criteria.

One unique component of veterans treatment court is the mentor program. The mentor program is composed of volunteer veterans and active-duty soldiers, who freely give of their time to mentor, peer to peer, the participating members of the

<table>
<thead>
<tr>
<th>States With the Largest Veterans Population</th>
<th>Population</th>
</tr>
</thead>
<tbody>
<tr>
<td>California</td>
<td>2,148,000</td>
</tr>
<tr>
<td>Florida</td>
<td>1,723,000</td>
</tr>
<tr>
<td>Texas</td>
<td>1,634,000</td>
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<tr>
<td>Pennsylvania</td>
<td>1,059,000</td>
</tr>
<tr>
<td>New York</td>
<td>1,056,000</td>
</tr>
<tr>
<td>Ohio</td>
<td>992,000</td>
</tr>
<tr>
<td>Illinois</td>
<td>830,000</td>
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<tr>
<td>Michigan</td>
<td>787,000</td>
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<tr>
<td>Georgia</td>
<td>753,000</td>
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<tr>
<td>North Carolina</td>
<td>749,000</td>
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<tr>
<td>Virginia</td>
<td>729,000</td>
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<tr>
<td>Washington</td>
<td>609,000</td>
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<tr>
<td>Arizona</td>
<td>546,000</td>
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<tr>
<td>Missouri</td>
<td>529,000</td>
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<tr>
<td>Tennessee</td>
<td>527,000</td>
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<tr>
<td>New Jersey</td>
<td>527,000</td>
</tr>
<tr>
<td>Indiana</td>
<td>525,000</td>
</tr>
</tbody>
</table>

Source: United States Department of Veterans Affairs, 2007
Veterans Treatment Courts Developing Throughout the Nation

Veterans Treatment Courts Developing Throughout the Nation

These volunteer men and women are veterans who have served in Vietnam, Korea, Operation Desert Shield, Operation Desert Storm, Operation Enduring Freedom, and Operation Iraqi Freedom. Our experiences have shown that veterans were more likely to respond more favorably to another veteran than to others who did not have similar experiences. It is anticipated that the mentors’ active, supportive relationship, maintained throughout treatment, would increase the likelihood that a veteran will remain in treatment and improve his or her chances for sobriety and law-abiding behavior.

Social and Economic Impact

Research over the past decade has continuously shown lower rates of recidivism and higher rates of financial return for drug treatment courts than for traditional courts (NADCP, n.d.). A cost-benefit analysis of veterans treatment court should rival that of drug court. To date, approximately 100 veterans are enrolled in Buffalo’s veterans treatment court. Fifteen have successfully completed the program, two have voluntarily withdrawn, and two were unsuccessfully terminated. Thus far, graduates of Buffalo’s veterans treatment court have experienced drastic positive life changes. They are clean and sober and actively addressing any mental-health needs. All are either employed or pursuing further education. Many have been able to mend strained relationships with family and friends, and those who were homeless were able to attain stable housing. To date, graduates of Buffalo’s veteran’s treatment court maintain a zero percent recidivism rate. Perhaps most significant of all of this is the change in the demeanor and attitudes of these individuals. Graduates leave the treatment court program with a renewed sense of pride, accomplishment, and motivation.

The impact on court budgets will vary from court to court depending upon the population it serves, the specific design and components of the court, and the resources already available or those needed. For example, Buffalo’s veteran’s treatment court did not have any additional funding to implement the program and to operate its first year. While they are currently seeking funding to staff a veterans-court case manager, the Buffalo court was able to keep cost relatively minimal the first year by using existing drug and mental-health courts staff and resources that were already funded and available. In addition, the peer-mentor program, which is a major component of Buffalo’s veterans treatment court, is staffed completely by volunteers.

For those courts whose resources are already stretched too thin among their treatment courts, or those who do not currently have treatment courts in operation, federal financial assistance may soon be available to support the creation and operation of a veterans treatment court. Identical legislation was introduced in both houses of the United States Congress (Services, Education, and Rehabilitation for Veterans Act, 2008). These bills propose to allocate $25,000,000 in funding for each of the next five fiscal years, by way of federal grants, for the purpose of establishing veterans treatment courts. In some states, courts may actually save on treatment costs by implementing specialized veterans-treatment-court programs. In states where courts have a budget to purchase treatment for defendants, they would not have to use a sizable portion of their budgets to pay for treatment for veterans because most would qualify for treatment services through the Veterans Administration, whereby the cost of treatment is covered.

Conclusion

The potential problems facing our nation’s veterans are numerous. These issues will likely require assistance and collaboration from countless professionals within our communities, including the courts, to even begin to combat them. Veterans treatment courts serve as a way for the criminal-justice system to do its part in helping our nation’s veterans to overcome these issues and obstacles in their lives. In addition to reducing crime and improving public safety, these courts provide the justice system the opportunity to do something proactive, to assist those who have served our country to get their lives back on track.

Identical legislation was introduced in both houses of the United States Congress and these bills propose to allocate $25,000,000 in funding for each of the next five fiscal years, by way of federal grants, for the purpose of establishing veterans treatment courts.
RESOURCES


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VETERANS TREATMENT COURT:
A PROACTIVE APPROACH

Judge Robert T. Russell

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Veterans Treatment Court:  
A Proactive Approach  

Judge Robert T. Russell†

I. INTRODUCTION

As the veteran population in the United States continues to rise, so too does the need for greater understanding of the impact of military service. As of October 2008, the estimated United States veteran population was 23,442,000.1 “Since October 2001, approximately 1.64 million U.S. troops have been deployed for Operations Enduring Freedom and Iraqi Freedom . . . in Afghanistan and Iraq.”2 Military service can impact the lives of veterans and their families in countless ways. Many returning veterans and their families cope with serious issues such as: alcohol and substance abuse, mental illness, homelessness, unemployment, and strained relationships.3 Oftentimes, these serious issues go unaddressed, and many of the veterans end up in our criminal justice system. With the increase of veterans with serious needs in our criminal justice system, comes the need for the system to develop innovative ways of working to address these issues and needs. One court in Buffalo, New York, has developed a plan for meeting the serious needs of veterans within the criminal justice system and created the nation’s first specialized Veterans Treatment Court.

† Judge Robert Russell is an acting Judge for the Erie County Court, located in Buffalo, New York, and is the former Chairman of the Board of Directors of the National Association of Drug Court Professionals. Judge Russell established the nation’s first Veterans Treatment Court in Erie County, a specialized court for veterans who have committed non-violent offenses. University of Buffalo Law Student and Intern Danielle Parent assisted with this article.

2. RAND CTR. FOR MILITARY HEALTH POLICY RESEARCH, INVISIBLE WOUNDS OF WAR: PSYCHOLOGICAL AND COGNITIVE INJURIES, THEIR CONSEQUENCES, AND SERVICES TO ASSIST RECOVERY iii (Terri Tanielian & Lisa H. Jaycox eds., 2008) [hereinafter RAND STUDY].
3. Id. at 125-48.
II. ISSUES AND PROBLEMS FACING VETERANS

Men and women in the United States military endure high costs of service. While some of these costs are immediate and obvious, like death or injury, other costs may not surface or be fully realized until years later.\(^4\) The impact of military service on veterans can be immense and long-lasting. These may include, among others, alcohol and substance abuse, mental illness, homelessness, unemployment, and strained relationships.\(^5\)

A. Alcohol and Substance Abuse

Alcohol and substance abuse exists across all classes, ages, and races of people in the United States. It is a problem that knows no boundaries and impacts nearly everyone's life in some way. The veteran population is just as susceptible to alcohol and substance abuse as other populations in America. The 2003 National Survey on Drug Use and Health found that 56.6% of veterans had used alcohol, and 7.5% reported heavy alcohol use in the previous month.\(^6\) Results of the 2003 survey also indicated a higher use of marijuana by veterans than non-veterans in the past month.\(^7\) However, "of the 256,000 veterans in need of treatment for illicit drug use in the past year, [only] 20 percent had received treatment . . . ."\(^8\)

B. Homelessness

Homelessness disproportionately affects veterans. It is estimated that 23% of the homeless population in the United States are veterans.\(^9\)

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also estimated that on any given night anywhere from 154,000 to 200,000 veterans are homeless. In any given year, approximately 400,000 veterans will experience homelessness. Problems like homelessness are often accompanied by co-morbid conditions. Within the homeless veteran population itself, "45% suffer from mental illness, and half have substance abuse problems."

C. Strained Relationships

When service members deploy, they leave behind family and friends. Military life and deployment can have a lasting and significant impact not only on service members, but also the people in their lives. Research indicates that the military experience, particularly multiple deployment, strains marriages and other relationships. These strained relationships may have further consequences. For example, in 2006, 20% of service members planned on separating or divorcing.

D. Unemployment

Veterans also face higher unemployment rates than their non-veteran counterparts. This is particularly true for veterans of the Gulf War era, from August 1990 forward. Among veterans experiencing unemployment, the hardest hit are the youngest veterans. In 2005, the Bureau of Labor Statistics calculated an unemployment rate of 18.7% for Gulf War era veterans aged eighteen to twenty-four years old. For non-veterans aged eighteen to twenty-four the unemployment rate was only 9.9.

15. DEP’T OF DEF. TASK FORCE ON MENTAL HEALTH, supra note 4, at 36.
16. Id.
18. Id.
19. Id.
20. Id.
E. Mental Health

Research indicates that "among the most pervasive and potentially disabling consequences of military service is the threat to the psychological health of our nation's fighting forces, their families, and their survivors." Rates of mental illness are particularly high within the deployed veteran population. The incidence of mental illness in veterans spans all ages and all periods of conflict. Signature injuries of the Iraq and Afghanistan operations are Post Traumatic Stress Disorder (PTSD) and Traumatic Brain Injury (TBI). In particular, 17% to 28% of brigade combat teams are at risk for serious symptoms of PTSD.

The Department of Defense Task Force on Mental Health (the Task Force) has determined that the current system of care for physiological health is "insufficient" in meeting the needs of service members and their families. The military's mental health care system reflects trends in American health care and mental health treatment. These trends demonstrate a shift towards "acute, short-term treatment models." It is questionable whether such treatment models promote the military's goal of

22. Id. at 3-5.
23. Id.
24. According to the American Psychiatric Association, Post Traumatic Stress Disorder occurs:

[When] the person has been exposed to a traumatic event in which both of the following were present: (1) the person experienced, witnessed, or was confronted with an event or events that involved actual or threatened death or serious injury, or a threat to the physical integrity of self or others, (2) the person's response involved intense fear, helplessness, or horror.

25. According to the Center for Disease Control, a Traumatic Brain Injury:

[Is] caused by a blow or jolt to the head or a penetrating head injury that disrupts the normal function of the brain. Not all blows or jolts to the head result in a TBI. The severity of a TBI may range from "mild," i.e., a brief change in mental status or consciousness to "severe," i.e., an extended period of unconsciousness or amnesia after the injury.

26. Dep't of Def. Task Force on Mental Health, supra note 4, at ES-1.
27. Id. at 5.
28. Id. at ES-1.
29. Id.
30. Id.
2009] VETERANS TREATMENT COURT

a “healthy and resilient force.” The Task Force has identified current barriers to service members accessing mental health treatment, including gaps in insurance coverage and the stigma or perceived stigma associated with treatment. Many veterans are reluctant to seek assistance for their mental health needs. This reluctance may be linked in part to the veterans’ “warrior mentality.” The costs, both human and financial, of failing to address problems related to mental health are expected to increase over time.

1. Guard and Reserve

These mental health issues are presenting themselves not only in active duty soldiers and Marines, but increasingly among National Guard and Reserve members. The recent conflicts in Iraq and Afghanistan have called for a significant number of deployments for National Guard and Reserve troops, who, in the past, were less likely to be deployed. Studies indicate that special considerations are needed for these service members. On the Post Deployment Health Reassessment, 49% of the National Guard and 43% of the Marine Reserve self-reported psychological health concerns.

2. Women

Female veterans are an area of unique concern. The impact of military service on women may be distinctive, particularly with effects on mental health. Currently, 8% of the 23,442,000 veterans are female. As a sub-population, female veterans face unique issues as a result of their military experience. Deployed women are currently facing more combat situations than in past wars. Along with this comes a higher likelihood of PTSD, as well as the potential psychological impact of sexual trauma.

31. Id. at ES-1 to -2.
32. Id. at ES-2 to -3.
33. Id.
35. DEP’T OF DEF. TASK FORCE ON MENTAL HEALTH, supra note 4, at 63.
36. Id. at 57.
37. Id.
38. Id. at 58.
39. Id. at 57.
40. Id. at 58-59.
41. Id.
42. Id.
perpetuated by fellow military personnel.\textsuperscript{43}

3. Co-occurring disorders

When left untreated, mental health problems can lead to other serious issues, like substance abuse.\textsuperscript{44} Individuals may use drugs and alcohol to “self-medicate” and to alleviate the symptoms of underlying mental health issues.\textsuperscript{45} More than half of individuals with alcohol or substance abuse issues have experienced a mental health disorder at some point in time.\textsuperscript{46}

III. CRIMINAL JUSTICE SYSTEM

In addition to the issues presented above, more veterans are finding themselves caught up in the criminal justice system. In 1998, veterans made up 12\% of the individuals released from prison or jail.\textsuperscript{47} This figure does not account for the number of veterans charged with crimes or those currently incarcerated.\textsuperscript{48} Other estimates conclude that the 12\% figure is also reflective of the current number of incarcerated veterans.\textsuperscript{49}

The 2000 Bureau of Justice Statistics report indicates significant rates of drug and alcohol use, homelessness, and mental illness among the veterans who end up in the criminal justice system.\textsuperscript{50} The report found that prior to incarceration in jail or prison, 81\% of veterans report drug use problems.\textsuperscript{51} The report also found that prior to incarceration in jail, 35\% were identified as having current alcohol dependency, 23\% were homeless at some point in the prior year, and 25\% were identified as mentally ill.\textsuperscript{52} These rates were

\textsuperscript{43} Id.


\textsuperscript{45} Id.

\textsuperscript{46} Id.

\textsuperscript{47} Under Secretary for Health’s Information Letter, Dep’t of Veterans Affairs, Veterans Health Admin., Guidelines and Recommendations for Services Provided by VHA Facilities to Incarcerated Veterans Re-Entering Community Living (June 27, 2006), http://www1.va.gov/homeless/docs/IV_IL_10200607.pdf [hereinafter Under Secretary for Health’s Information Letter].

\textsuperscript{48} See id.


\textsuperscript{50} Under Secretary for Health’s Information Letter, supra note 47, at 1; see also RAND STUDY, supra note 2, at 125-48.

\textsuperscript{51} Id.

\textsuperscript{52} Id.
slightly lower with veterans in prison; finding 31% identified as having current alcohol dependency, 12% were homeless in the year prior to incarceration, and 19% were identified as mentally ill.53

In recent years, there have been noted increases in veteran involvement in alcohol-related incidents including driving under the influence, reckless driving, and drunk and disorderly conduct.54 From the third quarter of fiscal year 2005 to the third quarter of fiscal year 2006 alone, the rate of veterans involved in alcohol-related incidents jumped from 1.73 per 1000 soldiers to 5.71 per 1000 soldiers.55 Distressing to note is that only 41% of soldiers involved in these alcohol-related incidents “were even referred to [an] alcohol program.”56 There has also been no increase in alcohol program participation to match the increase in incidents.57

The increased prevalence of veterans in our criminal justice system has not gone unnoticed in Buffalo, New York. As presiding Judge over Buffalo’s Drug Treatment and Mental Health Treatment courts, I noticed that many of the participants on my docket had something in common—they were veterans. In fact, it was the noticeable rise in the numbers of veterans on the city treatment court dockets that ultimately led to the advent of a specialized Veterans Treatment Court.

IV. WHY A VETERANS TREATMENT COURT?

Some may wonder, why create a treatment court specific to veterans? Why not work with these individuals within the established drug and mental health treatment courts? There are many answers to this question; perhaps the most significant is that veterans are a niche population with unique needs. Service members have many shared experiences. Many of these experiences are not common among their non-military peers. Members of the military and veterans are a unique population, which calls for tailored care. Traditional community services may not be adequately suited to meet their needs.58 “[S]ervice members and their families experience unique stressors as part of the military experience. . . . [Thus] the delivery of high quality care for psychological health, including prevention, early intervention and treatment, requires providers who are knowledgeable about and able to empathize with the military experience.”59

53.  Id.
54.  Dep’t of Def. Task Force on Mental Health, supra note 4, at 21.
55.  Id.
56.  Id.
57.  Id.
58.  Id. at 41.
59.  Id.
Our experience in both the Buffalo Drug Treatment Court and the Buffalo Mental Health Treatment Court is that veterans respond more favorably to other veterans in the court. Veterans court allows for veterans to go through the treatment court process with people who are similarly situated and have common past experiences and needs. This type of court links individuals with service providers who either share or understand the unique experience of military service, military life, and the distinctive needs that may arise from that experience.

V. BUFFALO VETERANS TREATMENT COURT

The Buffalo Veterans Treatment Court held its first session in January of 2008. It was the first court that specialized and adapted to meet the specific needs of veterans. As of October 2008, it was the only known Veterans Treatment Court in the United States. The mission driving the Veterans Treatment Court is to successfully habilitate veterans by diverting them from the traditional criminal justice system and providing them with the tools they need in order to lead a productive and law-abiding lifestyle. In hopes of achieving this goal, the program provides veterans suffering from substance abuse issues, alcoholism, mental health issues, and emotional disabilities with treatment, academic and vocational training, job skills, and placement services. The program provides further ancillary services to meet the distinctive needs of each individual participant, such as housing, transportation, medical, dental, and other supportive services.

A. Key Components

Like many treatment courts, Buffalo’s Veterans Treatment Court has adopted, with slight modifications, the essential tenets of the ten key components as described in the U.S. Department of Justice Publication entitled Defining Drug Courts: The Key Components, in combination


61. THE NAT’L ASS’N OF DRUG COURT PROF’LS, U.S. DEP’T OF JUSTICE, DEFINING
with the ten essential elements of mental health courts. Brief descriptions of these modifications are listed in the ten key components that follow this introduction. Although there are differences between drug courts, mental health courts, and the Buffalo Veterans Treatment Court, the Key Components provides the foundation in format and content for the essential elements of each of these courts. Veterans Treatment Court is a hybrid of drug and mental health treatment courts, servicing veterans with addiction, serious mental illness, and co-occurring disorders.

1. Key Component One: Veterans Treatment Court integrates alcohol, drug treatment, and mental health services with justice system case processing

   Buffalo’s Veterans Treatment Court promotes sobriety, recovery, and stability through a coordinated response to veterans’ dependency on alcohol, drugs, and management of their mental illnesses. Realization of these goals requires a team-centered approach. This approach involves the cooperation and collaboration of the traditional partners found in drug treatment courts and mental health treatment courts, with the addition of the Veteran Administration Health Care Network, Veterans Benefits Administration, veterans and veterans’ family support organizations, and veteran volunteer mentors.

2. Key Component Two: Using a non-adversarial approach, prosecution and defense counsel promote public safety while protecting participants’ due process rights

   To facilitate the veterans’ progress in treatment, the prosecutor and defense counsel shed their traditional adversarial courtroom relationship and work together as a team. Once a veteran is accepted into the treatment court program, the team’s focus is on the veteran’s recovery and law-abiding behavior—not on the merits of the pending case.

3. Key Component Three: Eligible participants are identified early and promptly placed in the Veterans Treatment Court program

   Early identification of veterans entering the criminal justice system is an
integral part of the process of placement in the Veterans Treatment Court program. An arrest can be a traumatic event in a person’s life. It creates an immediate crisis and can compel recognition of inappropriate behavior into the open, making denial for the need of treatment difficult for the veteran.

4. Key Component Four: The Veterans Treatment Court provides access to a continuum of alcohol, drug, mental health and other related treatment and rehabilitation services

While primarily concerned with criminal activity, alcohol and other drug (AOD) use, and mental illness, the Veterans Treatment Court team also considers co-occurring problems such as primary medical problems, transmittable diseases, homelessness, basic educational deficits, unemployment and poor job preparation, spouse and family troubles—especially domestic violence—and the ongoing effects of war time trauma.

Veteran peer mentors are essential to the Veterans Treatment Court team. Their ongoing interaction with the Veterans Treatment Court participants is essential. Active support from a veteran peer mentor throughout treatment increases the likelihood that a veteran will remain in treatment and improves the chances for sobriety and law-abiding behavior in the future.

5. Key Component Five: Abstinence is monitored by frequent alcohol and other drug testing

Frequent court-ordered AOD testing is essential. An accurate testing program is the most objective and efficient way to establish a framework for accountability and to gauge each participant’s progress.

6. Key Component Six: A coordinated strategy governs Veterans Treatment Court responses to participants’ compliance

A veteran’s progress through the treatment court experience is measured by his or her compliance with the treatment regimen. Veterans Treatment Court rewards cooperation but also responds to noncompliance. Veterans Treatment Court establishes a coordinated strategy, including a continuum of graduated responses to continuing drug use and other noncompliant behavior.

7. Key Component Seven: Ongoing judicial interaction with each veteran is essential

The judge is the leader of the Veterans Treatment Court team. This active, supervising relationship, maintained throughout treatment, increases the likelihood that a veteran will remain in treatment and improves the chances for sobriety and law-abiding behavior. Ongoing judicial
supervision also communicates to veterans that someone with authority cares about them and is closely monitoring them.

8. Key Component Eight: Monitoring and evaluation measures the achievement of program goals and gauges effectiveness

Management and monitoring systems provide timely and accurate information about program progress. Program monitoring provides oversight and periodic measurements of the program’s performance against its stated goals and objectives. Additionally, information and conclusions developed from periodic monitoring reports, process evaluation activities, and longitudinal evaluation studies may be used to modify the program.

9. Key Component Nine: Continuing interdisciplinary education promotes effective Veterans Treatment Court planning, implementation, and operation

All Veterans Treatment Court staff should be involved in education and training. Interdisciplinary education exposes criminal justice officials to veteran treatment issues, the Department of Veterans Affairs (VA), veteran volunteer mentors, and it exposes treatment staff to criminal justice issues. It also develops a shared understanding of the values, goals, and operating procedures of the VA, treatment, and the justice system.

Education and training programs help maintain a high level of professionalism, providing a forum for solidifying relationships among criminal justice officials, the VA, veteran volunteer mentors, and treatment personnel, while promoting a spirit of commitment and collaboration.

10. Key Component Ten: Forging partnerships among the Veterans Treatment Court, the VA, public agencies, and community-based organizations generates local support and enhances the Veterans Treatment Court’s effectiveness

The Veterans Treatment Court’s unique position in the criminal justice system makes it well-suited to develop coalitions among private community-based organizations, public criminal justice agencies, the VA, veterans and veterans’ families support organizations, and AOD and mental health treatment delivery systems. Forming such coalitions expands the continuum of services available to Veterans Treatment Court participants and informs the community about the Veterans Treatment Court concepts. The Veterans Treatment Court fosters system-wide involvement through its commitment to shared responsibility and participation of program partners.

B. How it Operates

The court diverts eligible veteran-defendants with substance dependency
and mental illness to the specialized Veterans Treatment Court docket. Eligible veterans are identified through evidence-based screening and assessments. Typically, offenders who are transferred to this docket have committed felony or misdemeanor non-violent crimes. Participation in the veterans’ court is voluntary. The Buffalo Veterans Treatment Court serves clients with cases in Buffalo city courts as well as clients from other jurisdictions within Erie County, New York, whose cases are transferred to the Veterans Treatment Court docket.

The Buffalo Veterans Treatment Court recognizes the unique and substantial needs of this nation’s service members. The court seeks to address the needs of each individual veteran on its docket. Many issues have a reciprocating impact; one may lead to another, which then may reinforce and increase the first. Since most participants have several issues and needs, all must be adequately addressed. According to the National Coalition for Homeless Veterans, “[v]eterans need a coordinated effort that provides secure housing and nutritional meals; essential physical health care, substance abuse aftercare and mental health counseling; and personal development and empowerment. Veterans also need job assessment, training and placement assistance.” The Buffalo Veterans Treatment Court provides the forum to deliver all of these needed services and more. The program is based on the belief that individuals need services, support, skills, and spirit to be successful, known as the “four S” principle. The treatment court’s experience has been that when one of these “S” elements is weak or does not exist, then the alcohol, drugs, mental health, and criminal problems become exacerbated. It creates a link between the criminal justice system, treatment, veteran’s services, and the community.

As a “community of professionals, we are uniquely positioned to develop a response within the criminal justice system that coordinates individual responsibility with treatment and a host of veteran agencies.” Service delivery is made possible through the collaboration of numerous community partners. In the Buffalo Veterans Treatment Court, these partners include the VA Health Care Network, the Veterans Benefits Administration, the Western New York Veterans Project, the Veterans

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64. Example: A person experiencing mental illness may self-medicate through the use of alcohol or illicit drugs. This self-medicating may increase the impact of the person’s mental illness or cause the person to be reliant on those substances.


Treatment Court team, volunteer veteran mentors, and a coalition of community health care providers. All are vital components to the success of the Buffalo Veterans Treatment Court. It is this partnership that affords participating veterans the opportunity to regain sobriety, stability, health and well-being.

The one element that resonates throughout all of the Buffalo Treatment Courts, including the Veterans Court, is the emphasis placed on personal accountability and the utilization of learned tools. The court provides a therapeutic environment, coupled with a high level of accountability for the offender, while allowing him to remain in the community. Participants attend regular status hearings, participate in the development of their treatment plans, and engage in community groups. Participants are held accountable for their actions through sanctions and incentives.  

Appropriate treatment needs are determined through assessment. Most of the veterans receive treatment through the VA Health Care Network. There are numerous reasons for this, including availability of resources and coverage. Veterans are also offered treatment through the VA because of the unique care and understanding the facility has for veterans’ experiences and needs.

Particular emphasis is placed on behavior modification and the idea of being mindful of the people, places, and things that participants associate with. Certain people, places, and things can cause a participant to resort back to negative behaviors. Identifying these triggers is helpful for the participants in gaining self-awareness. Participants are then expected to use this self-awareness to make positive choices about what and whom they associate themselves with. The court also encourages family involvement in the lives of these veterans with the understanding that family can provide support and motivation. As is common among many treatment courts, incentives are offered for compliance and sanctions for non-compliance with the program. Upon successful completion of the program, not only are veterans sober and stable, many also have their charges reduced or dismissed, or receive a commitment of non-incarceration.

C. Mentoring

One particularly unique and vital component of the Buffalo Veterans Treatment Court is the mentor program. In addition to the treatment court team and various agencies, a group of approximately twenty volunteers serve in the court as mentors. These volunteers are veterans who have served in Vietnam, Korea, Operation Desert Shield, Operation Enduring Freedom, and Operation Iraqi Freedom. These men and women volunteer...
Mentors serve a variety of roles, including coach, facilitator, advisor, sponsor, and supporter. Mentors listen to the concerns and problems of participants and assist them in finding resolutions. They observe participants and work with them to help set goals and action plans. Mentors provide feedback to participants and highlight their successes. Most importantly, mentors act as a support for the veteran participant in a way that only other veterans can. The mentoring program thrives on the premise that "behind every successful person, there is one elementary truth: somewhere, somehow, someone cared about their growth and development. This person was their mentor."

VI. RESULTS OF THE VETERANS COURT TO DATE

As of December 2008, the Buffalo Veterans Treatment Court has had seventy-five participants and three graduates. These men and women enter the Veterans Treatment Court with a variety of issues, ranging from substance abuse to mental health, homelessness, unemployment, and strained relationships. At the time of graduation, these same individuals are substance free, dealing with mental health concerns, have a place to live, and have stable employment or are actively engaged in furthering their education. Many have also managed to repair damaged relationships with family and friends. To date, the Buffalo Veterans Treatment Court graduates have a 0% recidivism rate.

The successes of these veterans may not be adequately expressed simply by the inexistence of recidivism and relapse. Rather, their successes may be better understood by the positive changes in their individual lives. Some have experienced positive changes in their personal lives, relationships, and marriages. Some have been able to successfully reunite with their children. Some have made "lemonade out of lemons" and turned community service sanctions into permanent gainful employment. Some have decided to make the commitment to work in the treatment field after graduation. These veterans now have their lives back on track. Perhaps most significant of all are the changes in the demeanor and attitudes of these individuals. Participants emerge from the process standing tall, smiles on their faces, with a renewed sense of hope, pride, accomplishment, motivation, and confidence in their ability to continue to face challenges and better their lives.

Aside from the personal benefits that treatment courts like this provide, there are also significant benefits to society as a whole. From a policy

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68. Interview with Jack O'Connor, Mentor Coordinator, Buffalo Veterans Treatment Court (Dec. 2008).
perspective, specialized treatment courts make sense because they help people become "drug-free, productive citizens." Research over the past decade has shown lower rates of recidivism and a higher return on financial investments with drug courts than with traditional courts. A statewide study on drug courts in New York found the recidivism rate for drug court participants to be 29% lower than that of similar offenders who did not participate in the program. Similar rates have been found in studies of drug courts across the nation. It is estimated that nationally, one year after graduation from treatment courts, approximately 85% of offenders had no new arrests.

The financial benefit of treatment courts in the United States is also significant. A study of New York drug courts concluded that by diverting 18,000 individuals to treatment court, the state saved approximately $254 million in incarceration costs alone. Another study by the National Institute of Justice calculated that in Multnomah County, Oregon, an average of $2,328.89 was saved, per person per year by utilizing the drug court model versus the traditional court model. This study also estimated that, if the cost to victims is accounted for, the figure rises to $3,596.92 per individual. A California study estimated that nationally, "drug courts save taxpayers ninety million dollars annually." This, coupled with the reduction in crime, which can be estimated to value as much as $24,000 per participant, makes treatment courts a wise economic option.

Long-term benefits may exist in the form of less crime, a healthier community, more employed individuals, less need of government assistance, and fewer people contributing to the drug industry and more to the economy. These long-term benefits to society are immeasurable. It is expected that the Buffalo Veterans Treatment Court will produce similar benefits to society, as other treatment courts across the country have.

69. Hora & Stalcup, supra note 44, at 765.
71. Id.
72. Id.
73. Hora & Stalcup, supra note 44, at 802.
74. See Drug Court Benefits, supra note 70.
75. Id.
76. Id.
77. Id.
78. Hora & Stalcup, supra note 44, at 802.
79. Id.
80. See MICHAEL REMPEL ET AL., CTR. FOR COURT INNOVATION, CONCLUSIONS: THE NEW YORK STATE ADULT DRUG COURT EVALUATION 6 (2003), available at
VII. FUTURE FOR VETERANS IN THE CRIMINAL JUSTICE SYSTEM

While the Buffalo Veterans Treatment Court was the first and only of its kind, it will certainly not stand alone for long. Courts across the country are looking into creating programs for veterans. Many of these courts are looking to Buffalo’s Veterans Treatment Court as a model for the development of their own programs. These courts and communities have recognized a need to provide treatment and services to our nation’s veterans, not only as a means of meeting their needs, but as a way of preventing future crime. Recognition of this need has gone beyond local courts and surfaced within Congress. In 2008, the United States Senate and House of Representatives proposed legislation that would provide federal funding, by way of grants, for the implementation and operation of treatment courts serving veterans.

As our veteran population in the United States continues to rise, so too does the number of veterans with serious problems. The needs of veterans are many, and they are not likely to go away unaddressed. One community in Buffalo, New York, has taken a proactive step in dealing with the increase of veterans in its criminal justice system and the issues that they face through the development of its Veterans Treatment Court. It is time for more communities, agencies, and organizations to take a proactive approach.


81. As of December 2008, there are also Veterans Treatment Courts in operation in Orange County, California, and Tulsa, Oklahoma. See Marek, supra note 60, at 1, 7.

82. Services, Education, and Rehabilitation for Veterans Act, H.R. 7149, 110th Cong. § 2 (2008); S. 3379, 110th Cong. § 2 (2008). H. R. 7149 was introduced on September 26, 2008, by Congresspersons Kennedy (Rhode Island), Higgins (New York), and Sutton (Ohio); S. 3379 was introduced on July 31, 2008, by Senators Kerry (Massachusetts), Murkowski (Alaska), and Durbin (Illinois). H.R. 7149; S. 3379. These bills have yet to be re-filed in the current legislative session of Congress.