

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.

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1. NAT’L CTR. FOR VETERANS ANALYSIS AND STATISTICS, VA BENEFITS AND HEALTH CARE UTILIZATION (2008), *available at* http://www1.va.gov/vetdata/docs/4x6_fall08_sharepoint.pdf.

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 It is

4. DEP'T OF DEF. TASK FORCE ON MENTAL HEALTH, AN ACHIEVABLE VISION: REPORT OF THE DEPARTMENT OF DEFENSE TASK FORCE ON MENTAL HEALTH, at ES-1 (2007), available at <http://www.health.mil/dhb/mhtf/MHTF-Report-Final.pdf> [hereinafter DEP'T OF DEF. TASK FORCE ON MENTAL HEALTH].

5. RAND STUDY, *supra* note 2, at 125-48.

6. OFFICE OF APPLIED STUDIES, SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMIN., THE NATIONAL SURVEY ON DRUG USE AND HEALTH REPORT: ALCOHOL USE AND ALCOHOL-RELATED BEHAVIORS AMONG VETERANS 1-2 (2005), available at <http://www.oas.samhsa.gov/2k5/vetsAlc/vetsAlc.pdf>.

7. OFFICE OF APPLIED STUDIES, SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMIN., THE NATIONAL SURVEY ON DRUG USE AND HEALTH REPORT: SUBSTANCE USE, DEPENDENCE, AND TREATMENT AMONG VETERANS 2 (2005), available at <http://www.oas.samhsa.gov/2k5/vets/vets.pdf>.

8. OFFICE OF APPLIED STUDIES, SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMIN., THE NATIONAL HOUSEHOLD SURVEY ON DRUG ABUSE REPORT: ILLICIT DRUG USE AMONG VETERANS 1 (2002), available at <http://www.oas.samhsa.gov/2k2/vetsDU/vetsDU.pdf>.

9. National Coalition for Homeless Veterans, Background and Statistics: Most Often Asked Questions Concerning Homeless Veterans, <http://www.nchv.org/background.cfm> (last visited May 8, 2009) [hereinafter National Coalition for Homeless Veterans].

also estimated that on any given night anywhere from 154,000 to 200,000 veterans are homeless.¹⁰ In any given year, approximately 400,000 veterans will experience homelessness.¹¹ Problems like homelessness are often accompanied by co-morbid¹² conditions. Within the homeless veteran population itself, “45% suffer from mental illness, and half have substance abuse problems.”¹³

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.¹⁴ Research indicates that the military experience, particularly multiple deployment, strains marriages and other relationships.¹⁵ These strained relationships may have further consequences. For example, in 2006, 20% of service members planned on separating or divorcing.¹⁶

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.¹⁷ Among veterans experiencing unemployment, the hardest hit are the youngest veterans.¹⁸ 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.¹⁹ For non-veterans aged eighteen to twenty-four the unemployment rate was only 9.9%.²⁰

10. JOHN H. KUHN & JOHN NAKASHIMA, COMMUNITY HOMELESSNESS ASSESSMENT, LOCAL EDUCATION AND NETWORKING GROUP (CHALENG) FOR VETERANS: THE FOURTEENTH ANNUAL PROGRESS REPORT ON PUBLIC LAW 105-14 SERVICES FOR HOMELESS VETERANS ASSESSMENT AND COORDINATION 2 (2008).

11. National Coalition for Homeless Veterans, *supra* note 9.

12. Co-morbid is defined as “pertaining to two or more disorders simultaneously.” MedicineNet.com, Definition of Co-Morbid, <http://www.medterms.com/script/main/art.asp?articlekey=9952> (last visited May 8, 2009).

13. National Coalition for Homeless Veterans, *supra* note 9.

14. RAND STUDY, *supra* note 2, at 141-48.

15. DEP’T OF DEF. TASK FORCE ON MENTAL HEALTH, *supra* note 4, at 36.

16. *Id.*

17. U.S. DEP’T OF LABOR, BUREAU OF LABOR STATISTICS, EMPLOYMENT SITUATION OF VETERANS: AUGUST 2005, at 2 (2006).

18. *Id.*

19. *Id.*

20. *Id.*

E. Mental Health

Research indicates that “[a]mong 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.”²¹ Rates of mental illness are particularly high within the deployed veteran population.²² The incidence of mental illness in veterans spans all ages and all periods of conflict.²³ Signature injuries of the Iraq and Afghanistan operations are Post Traumatic Stress Disorder²⁴ (PTSD) and Traumatic Brain Injury²⁵ (TBI).²⁶ In particular, 17% to 28% of brigade combat teams are at risk for serious symptoms of PTSD.²⁷

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.²⁸ The military’s mental health care system reflects trends in American health care and mental health treatment.²⁹ These trends demonstrate a shift towards “acute, short-term treatment models.”³⁰ It is questionable whether such treatment models promote the military’s goal of

21. DEP’T OF DEF. TASK FORCE ON MENTAL HEALTH, *supra* note 4, at ES-1.

22. *Id.* at 3-5.

23. *Id.*

24. According to the American Psychiatric Association, Post Traumatic Stress Disorder occurs:

[W]hen [t]he 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.

AMERICAN PSYCHIATRIC ASSOCIATION, DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS 467 (4th ed. 2008).

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

[I]s 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.

National Center for Injury Prevention and Control, Centers for Disease Control and Prevention, What Is Traumatic Brain Injury?, <http://www.cdc.gov/ncipc/tbi/TBI.htm> (last visited May 8, 2009).

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.*

a “healthy and resilient force.”³¹ The Task Force has identified current barriers to service members accessing mental health treatment,³² including gaps in insurance coverage and the stigma or perceived stigma associated with treatment.³³ Many veterans are reluctant to seek assistance for their mental health needs. This reluctance may be linked in part to the veterans’ “warrior mentality.”³⁴ The costs, both human and financial, of failing to address problems related to mental health are expected to increase over time.³⁵

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.³⁶ 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.³⁷ Studies indicate that special considerations are needed for these service members.³⁸ On the Post Deployment Health Reassessment, 49% of the National Guard and 43% of the Marine Reserve self-reported psychological health concerns.³⁹

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.⁴⁰ As a sub-population, female veterans face unique issues as a result of their military experience.⁴¹ Deployed women are currently facing more combat situations than in past wars.⁴² 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.*

34. Alan Maimon, *The War Back Home: Combat's Invisible Wounds*, LAS VEGAS REVIEW-JOURNAL, Dec. 21, 2008, available at <http://www.lvrj.com/news/36525319.html>.

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.⁴³

3. Co-occurring disorders

When left untreated, mental health problems can lead to other serious issues, like substance abuse.⁴⁴ Individuals may use drugs and alcohol to “self-medicate” and to alleviate the symptoms of underlying mental health issues.⁴⁵ More than half of individuals with alcohol or substance abuse issues have experienced a mental health disorder at some point in time.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.⁴⁷ This figure does not account for the number of veterans charged with crimes or those currently incarcerated.⁴⁸ Other estimates conclude that the 12% figure is also reflective of the current number of incarcerated veterans.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.⁵⁰ The report found that prior to incarceration in jail or prison, 81% of veterans report drug use problems.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.⁵² These rates were

43. *Id.*

44. See Peggy Hora & Theodore Stalcup, *Drug Treatment Courts in the Twenty-First Century: The Evolution of the Revolution in Problem-Solving Courts*, 42 GA. L. REV. 717, 739 (2008).

45. *Id.*

46. *Id.*

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].

48. *See id.*

49. James McGuire, *Closing a Front Door to Homelessness Among Veterans*, 28 J. PRIMARY PREVENTION 389, 390 (2007), available at <http://www.springerlink.com/content/rq387463916175g7/fulltext.pdf>.

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

51. *Id.*

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.⁶⁰ 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*,⁶¹ in combination

60. Matthew Daneman, *N.Y. Court Gives Veterans Chance to Straighten Out*, USA TODAY, June 2, 2008, at 3A; Lynne Marek, *Courts for Veterans Spreading Across U.S.: Wave of Vets in Courts Trips Alarm*, NAT'L L.J., Dec. 22, 2008, at 1, 7. Since October, Veterans Treatment Courts have started in Orange County, California, Judge Wendy Lindley presiding, and in Tulsa, Oklahoma, Judge Sarah Smith presiding. Daneman, *supra* at 3A; Marek, *supra* at 1, 7. Monroe County, New York is set to open a veterans' court in January of 2009, Judge Patricia Marks presiding. At the time this article is published, Veterans Treatment Courts are in the planning stages, or operational stages, in the states of Wisconsin, Alaska, Ohio, Arizona, Florida, Pennsylvania, Massachusetts, Colorado, Connecticut, Vermont, Arkansas, Washington, Illinois, Kansas, Georgia, and possibly others. See generally *Erie County Veterans' Services: The Buffalo Veterans Treatment Court*, http://www.erie.gov/veterans/veterans_court.asp (last visited May 8, 2009) (providing updates on the development of veterans courts across the nation).

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.⁶² 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.⁶³ 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

DRUG COURTS: THE KEY COMPONENTS (photo. reprint 2004) (1997), *available at* <http://www.ncjrs.gov/pdffiles/bja/205621.pdf> [hereinafter DEFINING DRUG COURTS].

62. THE COUNCIL OF STATE GOV'TS JUSTICE CTR., U.S. DEP'T OF JUSTICE, IMPROVING RESPONSES TO PEOPLE WITH MENTAL ILLNESSES: THE ESSENTIAL ELEMENTS OF A MENTAL HEALTH COURT vii-viii (2007), *available at* http://www.ojp.usdoj.gov/BJA/pdf/MHC_Essential_Elements.pdf.

63. See generally DEFINING DRUG COURTS, *supra* note 61.

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.⁶⁴ 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."⁶⁵ 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."⁶⁶ 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

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.

65. National Coalition for Homeless Veterans, *supra* note 9.

66. Katrina J. Eagle & Steve R. Binder, *Veterans Facing Criminal Charges: How a Community of Professionals Can Serve Those Who Served Our Country*, NEV. LAW., Nov. 2008, at 17.

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.⁶⁷ 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

67. See discussion *supra* Part V.A.6 (Key Component Six).

their time to work directly with the Veterans Treatment Court Participants.

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."⁶⁸

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

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.”⁶⁹ 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.⁷⁰ 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.⁷¹ Similar rates have been found in studies of drug courts across the nation.⁷² It is estimated that nationally, one year after graduation from treatment courts, approximately 85% of offenders had no new arrests.⁷³

The financial benefit of treatment courts in the United States is also significant.⁷⁴ 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.⁷⁵ 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.⁷⁶ This study also estimated that, if the cost to victims is accounted for, the figure rises to \$3,596.92 per individual.⁷⁷ A California study estimated that nationally, “drug courts save taxpayers ninety million dollars annually.”⁷⁸ 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.⁷⁹ 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.⁸⁰

69. Hora & Stalcup, *supra* note 44, at 765.

70. National Drug Court Institute, Court Facts: Drug Court Benefits, http://www.ndci.org/courtfacts_benefits.html (last visited May 8, 2009) [hereinafter Drug Court Benefits].

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.⁸¹ 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.⁸²

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.

http://www.courtinnovation.org/_uploads/documents/drug_court_eval_conc.pdf.

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.