





Part of a series on treatment courts and other county-based efforts in criminal justice

Alternatives at the ‘Centre’ of Veterans Treatment Courts

By Daniel Clarke

The criminal justice system struggles to strike a balance between retribution and recovery. From the Portuguese model of decriminalizing drug use to the Edo model in “Star Trek” where all crimes, regardless of severity, result in a death penalty, there are varying approaches to deal with defendants whose charges stem from underlying conditions.

One American answer is treatment courts. In the 1980s, cities like New York City and Chicago began to make attempts on averting incarceration for drug users — this eventually led to drug treatment courts. Mental health treatment courts can trace their lineage back to 17th century cases, where justifiable homicide theories arose from castaways resorting to cannibalism, suggesting that circumstances might forgive crimes.

Both of these areas — substance abuse and mental health — converged in 2008 when Judge Robert T. Russel Jr. of Buffalo, N.Y., established the first formally recognized veterans treatment court (VTC). This court sought to divert veterans from incarceration when courts could trace the veterans’ crimes to conditions such as substance dependency or mental health conditions incurred from service. Since 2008, states have established over 460 VTCs, with Pennsylvania having 25 as of 2019.



As with any social program, a primary concern for a jurisdiction seeking to establish a VTC is cost. One judge in West Virginia admonished that establishing a court in the state had an initial cost of nearly \$100,000, which was the only significant barrier to its eventual implementation. The return on such an investment is tremendous, despite the initial upfront cost. One veterans aid organization stated that as of 2017, the average cost per prisoner per year was roughly \$22,000, and the nearly 11,000 diverted veteran prisoners served by a VTC resulted in saving taxpayers over \$250 million. Cambria County states that its VTC has saved the county over \$250,000 in imprisonment costs they'd have otherwise incurred. Furthermore, the data from jurisdictions with VTCs shows that despite lower rates of incarceration, recidivism rates are no higher, and long-term recovery rates are better.

In 2019, Centre County sought to establish the commonwealth's 26th VTC. Facing questions of cost and justification for a county that had recently established a drug treatment court and mental health treatment court, the effort met resistance. To date, Centre County does not have a formal VTC; instead, its district attorney, Bernie Cantorna, and a group of local veterans came together to act in line with an old military adage: adapt and overcome.

Through 2020 and the ongoing COVID-19 pandemic, the Centre County DA's office and local veterans worked in conjunction with faculty and students at The Pennsylvania State University Law School and surrounding county VTCs to try to conceive of a VTC-in-effect that would both adequately meet the needs of local veterans involved in the criminal justice system and have virtually no cost to the county beyond resources that already exist. By 2021, the efforts of these groups resulted in the creation of the Veteran Treatment Track Initiative (VTTI) and Centre County Veteran Mentorship Program (CCVMP).

The development of the VTTI and CCVMP outline a program that any county can implement provided it has a recovery-focused DA and local veterans willing to volunteer their time. The result will be a VTC-alternative.

The first and most fundamental ingredient in forming a VTC-alternative is one that Centre County remains fortunate to have: a district attorney who puts human rights and rehabilitative focus at the forefront of his or her mission. The importance of the DA lies in the discretionary powers of the office; a DA may choose how to prosecute criminal offenses, if he or she decides to bring formal charges at all. Centre County's DA brought experience as a defense attorney to the role, as well as a theory of justice

that considers equity and context, seeking rehabilitation and positive societal outcomes. A veterans group seeking to establish a VTC-alternative needs to reach out first to its DA, because without the DA's cooperation, the program has no hope.

The next element is the mentorship group. This can range from an informal group of veterans to a nonprofit with a recovery-focused mission. All successful VTCs employ a mentorship program; the role of a mentor being in some cases merely to communicate with and be an ear for the veteran involved. Alternatively, some mentor roles require the mentor to help guide and facilitate the treatment plan of the veteran. Centre County elected to use the mentors in a robust and involved manner,



The importance of the DA lies in the discretionary powers of the office.



RAISE THE BAR!

Earn your LL.M. online
with a concentration in Taxation
or Business Transactions

ALABAMALLM.UA.EDU



ALABAMALAW
THE UNIVERSITY OF ALABAMA®

PART OF THE  University of Alabama System



treatment goal. Finally, the mentor records all of the veteran's efforts and meetings, creating a confidential log of the progress the veteran makes toward reaching the goal. Aside from training and those in senior mentor functions, the time requirement for a mentor can often be as brief as a couple of hours per week.

Virtually all Pennsylvania VTCs utilize a phased approach to progressing their veterans through treatment. Likewise, the mentorship program will develop and implement a phased system designed to progress the veteran. The phases follow the familiar "crawl, walk, run" method of training employed in the military, where initial instruction and development are cultivated and built upon in subsequent phases. Centre County's program involves a red, a white and a blue phase. The red phase is essentially a protracted interview to determine if the veteran is willing and committed to seeking treatment and to enthusiastic participation in addressing his or her needs. The white phase is where the veteran attends a prescribed course of treatment and complies with the conditions of the DA's offer. The blue phase is a life-planning phase in which the veteran and mentor address and plan for the question of "what's next?" for the veteran.



All successful VTCs employ a mentorship program.

more so than typical VTCs that rely on resources like probation/parole and defense attorneys. The Centre County mentor receives formal training and then embarks on the journey with the veteran to help him or her navigate the systems necessary for developing and following a treatment plan. The mentor is, in effect, part social worker, part advocate and part battle buddy. The mentor first apprises the veteran of resources available through the VA or at the county level and then provides the veteran with the information necessary to contact these parties and establish a treatment plan. The mentor also provides accountability, meeting with the veteran at least weekly and having consensual communication with treatment providers to ensure the veteran is working toward the

Once a county DA and a veterans group agree to establish a VTC-alternative, they need to address two issues: (1) who are their service providers and (2) what are the parameters for veterans who will qualify? Identifying service providers who already exist is fundamental to addressing the needs of veterans without having the county incur costs. In the majority of instances, an honorably discharged veteran will qualify for substance abuse treatment through local Veterans Affairs offices at no cost. The Veteran Justice Outreach Program is a VA effort to address the needs of veterans involved in criminal justice systems and focuses on providing eligible veterans with the benefits and resources necessary to address their conditions. Virtually all coordinators are licensed



clinical social workers who process the veteran into the VA system and confirm the veteran's eligibility. These federally funded resources cost the county or veteran nothing to utilize. Additionally, assuming a veteran is not eligible for federal VA resources, a VTC-alternative may choose to utilize county-level resources, private insurance-provided resources or not open the track to veterans who do not qualify for VA services.

Fortunately, Centre County has a robust county-level resource pool to address substance abuse and dependency issues and mental health concerns for those who otherwise can't avail themselves of VA resources. Additionally, Pennsylvania is a Medicaid expansion state (commonwealth), which allows veterans without employment or other economic means to apply for low- to no-cost health care to cover treatment services.

The next necessary step is for both groups to define the program parameters. A DA should determine how the office plans to utilize its discretion for the veterans, though typically a case-by-case analysis is a reasonable method. The same is said for the mentorship group; the group will have to decide who it is willing to accept and who it isn't. Many formal VTCs have restrictions on the nature of offenses they will consider. Veterans charged with sex

offenses are almost universally disavowed any opportunity to utilize these programs. The acceptance of veterans with substance abuse and dependency issues or those charged with domestic violence vary from county to county. Both groups also have to agree on veterans' qualifying status. Some counties open their VTCs only to veterans with honorable discharges or those who qualify for VA benefits. Other counties will accept any veteran without a dishonorable discharge. Centre County is open to accepting any person who has worn the uniform — the most liberal interpretation of "veteran" — with a reservation to shift someone for whom the military experience was overwhelmingly noncontributory to his or her condition into a drug treatment- or mental health-specific court, both of which Centre County has.

Some counties with established VTCs have extremely narrow parameters for who they will accept, using cutoffs like characterization of discharge, prohibitions on certain charges, or if the VA recognizes or diagnosed the condition claimed to have caused the issue (e.g., substance abuse or PTSD). This can result in a VTC that is, in effect, hollow: It exists in theory, but the parameters are so restrictive many veterans don't qualify to use it. A hollow VTC can damage the efforts of VTCs as a whole because the primary benefits of rehabilitated veter-

Anyone considering establishing a VTC or VTC-alternative should strive to make the program as available as possible and liberally balance available resources against demand.

Identifying service providers who already exist is fundamental to addressing the needs of veterans without having the county incur costs.



ans and avoided imprisonment costs aren't realized, and thus the two primary metrics to measure success are nonexistent. Therefore, anyone considering establishing a VTC or VTC-alternative should strive to make the program as available as possible and liberally balance available resources against demand.

In practice, a veteran's journey through a VTC-alternative looks like this: A defense attorney, arresting officer or community member identifies the veteran early in the criminal justice system process, ideally at first encounter. Next, the DA reviews the charges and, assuming he or she is willing to exercise discretion to offer a diversionary track and the veteran's defense counsel consents, informs the local veteran mentorship program about the veteran. The mentorship program then helps the veteran establish a treatment plan, which primarily involves the veteran contacting resources and setting up appointments, while being accountable to the mentor, who works in conjunction with the defense attorney to create the most positive representation of the veteran as possible. Once the mentor and veteran establish a treatment plan, the veteran proceeds on the treatment track, concurrently receiving an offer from the DA to either plead to a lesser charge with predefined penalties or, in some cases, receive a conditional discharge. The DA offers these options in exchange for the veteran's continued participation in the

program and diligent attention to treatment. Finally, typically a year after the initial intake, the veteran completes treatment successfully and graduates from the mentorship program with the tools necessary to maintain recovery, reacclimate to society and pursue goals and desires that have been identified and outlined during the phased mentorship system.

One final consideration for VTC-alternatives: They generally do not have enforcement power. This means that since the mentorship group is not a court, it lacks court powers. The group does not have subpoena power or enforcement power like a court, nor a judge who can legally compel document production or require the veteran to do anything by court order. The mentorship group needs to persuade the veteran to comply with all aspects of the treatment plan, including the DA's conditions. In the event the veteran refuses or simply doesn't meet the standard, the mentorship group's recourse is to cut ties with the veteran. This action would not rescind a DA's offer of a modified charge or disposition or treatment from VA or county resources, and theoretically, the veteran would still be able to obtain a positive outcome (just without the support of the mentorship group). Therefore, it is important to consider the approaches a VTC-alternative group will take. Mainly, it must persuade, create an attractive program

and demonstrate that the program works to the benefit of participants.

In conclusion, the nascent Centre County VTC-alternative was able to start and continues to operate thanks to the county DA and a veteran-focused mentor group: people within the community who dedicate their time to the common goal of helping veterans address their problems. Thus, Centre County can provide the benefits of a VTC through its alternative program, at a fraction of the cost.

If you'd like to explore what you can do in your community to address the needs of veterans, Centre County is willing to share what's working for them. Please contact the DA's office at 814-355-6735 or the CCVMP at 814-404-1919 or centrecovmp@gmail.com for additional information. 📧

• • • • •



Daniel Clarke is an Army veteran and 3L at the Pennsylvania State University School of Law who anticipates graduating in May 2022. This article was produced in a collaborative effort with members of the Military and Veterans Legal Institute at Chapman University; a group of

veteran-focused fellows who provided feedback and input to the author for this writing under the guidance of Professor Kyndra Rotunda, executive director.

If you would like to comment on this article for publication in our next issue, please send an email to editor@pabar.org.