

**STATEMENT OF PENNSYLVANIA BAR ASSOCIATION TO THE HOUSE JUDICIAL
COMMITTEE AND THE VETERANS AFFAIRS AND EMERGENCY PREPAREDNESS
COMMITTEE**

SEPTEMBER 7, 2011 ON VETERAN COURTS

TO: Members of the House Judicial Committee and the Veterans Affairs and Emergency Preparedness Committee

The Pennsylvania Bar Association greatly appreciates the opportunity to submit a written statement and to testify before the House Judicial Committee and the Veterans Affairs and Emergency Preparedness Committee concerning the establishment and viability of Veteran Court programs throughout the State of Pennsylvania. Veteran Court programs are currently operating in several Pennsylvania counties. Although each program may differ slightly from county to county, overall the programs has proven to be an effective tool for the Courts.

Over the last two years, Veteran Court programs have been established in Lackawanna, Philadelphia, Allegheny, Berks, Chester, Montgomery and Washington Counties. Based upon the success of these initial Veteran Court programs, Lehigh, Northumberland, York, Dauphin, Delaware, Luzerne and Beaver Counties have initiated Veteran Court programs which are anticipated to be up and running within the next six months. The PBA supports providing funding to Counties to plan, implement and expand initiatives that increase public safety, avert increased spending on criminal justice and improve the effectiveness of treatment services for individuals with mental illnesses, substance abuse disorders and who are involved with or at risk of involvement with the criminal justice system. The Veteran Courts programs which have been initiated on a County by County basis, thus far, are achieving these goals. Hence, the Veteran Court programs are generally supported by the PBA and hopefully will be expanded as a state wide program.¹

NEED FOR THE VETERAN COURTS

Veteran Courts are responding to the growing trend of Veterans appearing before the Courts to face charges stemming from substance abuse and/or mental illness. Drug and Mental Health Courts have always served veteran populations but research has shown that traditional services do not always adequately meet the needs of Veterans. Further, most Veterans are entitled to treatment through the Veteran's Administration. Especially when the root cause of their issues may be service related, such as Post Traumatic Stress Disorder. Veteran Courts not only address the immediate criminal issue, but help connect the Veterans with the needed benefits and effective treatment plans to not only stop the criminal activity but to address the cause of the activity.²

The facts demonstrate that there are over 23,000,000 Veterans in the United States.³ There are approximately 1.7 million Veterans of the Iran and Afghanistan wars.⁴ Of these Veterans, one in five report symptoms of mental disorder.⁵ With respect to substance abuse, the effect of the recent wars in Iraq and Afghanistan are evident. One in four Veterans ages 18 to 25 meet the criteria for substance abuse disorder. In total, 1.8 million Veterans meet the criteria for having a substance abuse disorder.⁶

Further, it is estimated that as many as 1/3 of the adult homeless population has served in the military and that at any given time there as many as 107,000 homeless Veterans. This population mirrors the general homeless population in that: 45% suffer from mental illness and 75% suffer from substance abuse problems.⁷ Therefore, Courts specifically designed to target the Veteran population and deter future criminal activity are needed and just makes sense.

Although Veterans are not more likely to be arrested than the general population, there are a significant number of Veterans involved with the Criminal Justice System. Many of these Veterans struggle with mental health and/or substance abuse illness.⁸ In fact 81% of all Veterans

involved in the Criminal Justice System had a substance abuse problem prior to incarceration, 35% were identified as suffering from alcohol dependency, 23% were homeless at some point in the prior year and 25% were identified as mentally ill.⁹ Therefore, the need to identify these individuals and obtain access for them to the VA benefits which they had earned is a necessity.

As a result the first Veteran's Court was established in Buffalo, New York, and similar programs were created in Nevada, Oklahoma, California and Alaska. Currently, 27 State and/or Federal jurisdictions maintain a Veterans Court in some form.¹⁰ However, no State has expanded its Veterans Court program to include each and every county within the State. The PBA would suggest based on the success of the various independently run programs that Pennsylvania consider establishing a statewide Veterans Court program so that all Veterans may benefit.

WHAT MAKES VETERANS COURTS WORK

Veterans Courts utilizing a holistic approach to dealing with justice involving Veterans. The Courts create a special docket within the Court system and identify Veterans charged with non-violent offenses. The Courts are similar to mental health, drug and DUI courts in that all parties are collaborating in the effort to address the needs of the Veteran. However, the Veteran must be willing and able to abide by the Court's sanctions and make the necessary changes in his or her life. As the statistics above denote, the need for intervention, services and treatment for Veterans related to their military service has drastically increased in the last several years. The impact of stressors such as the current wars, readjustment to civilian life upon return from military service in a turbulent economy and mental health conditions such as PTSD may and have lead to substance abuse and interactions with the criminal justice system. Most of these Veterans are generally law abiding, but these problems contribute to criminal behavior among a significant population of Veterans. The Veterans Court programs seek to intervene at a point

early in the criminal justice process to get the Veteran's life back on course and allow the Veteran to remain a productive member of society.

Once a Veteran is identified as a potential candidate for the program, the Veteran is allowed to speak with an attorney to have the pros and cons of the program explained to him. If the Veteran is selected by the program and the Veteran elects to participate in the program, the Veteran is directed to Representatives of the Veteran's Administrations, who are onsite in the courtroom. The VA staff schedules eligible Veterans for an assessment to determine appropriate needs and level of care and directs them to benefits to which they may be entitled. The assessment determines the Veterans suitability for an array of VA programs, including any required treatment (alcohol, drug, mental health or medical) as well as housing, job training and job referrals. After consultation with a defense attorney, if an eligible Veteran chooses to accept the terms of the offer from the District Attorney to participate in the voluntary program, the Veteran is paired with a mentor. The mentor assists the Veteran in working towards a successful resolution of the criminal charge, including a change in life choices, so that future contacts with the Criminal Justice System can be avoided.

A MENTOR IS A KEY ELEMENT TO THE SUCCESS

The volunteer Veteran mentor is assigned by the Judge to a Veteran who has come before the Court. The role of the Mentor is to act as a coach, a guide, a role model, an advocate, who listens to the concerns of the mentee, provides encouragement and suggests positive approaches for resolving problems. The Mentor provides support for the Veteran. The voluntary Mentor does not provide legal advice or therapy as these functions are left to attorneys and healthcare professionals.¹¹

Many mentors are veterans, attorneys and members of the bar association. These mentors find their efforts worthwhile and participation in the program rewarding.

COMPLETION OF THE PROGRAM AND THE BENEFITS TO SOCIETY

Like other diversionary criminal courts programs, the goal of Veterans Court is to have the record of the Veteran expunged, to help them move past their substance abuse or mental health illness which lead to or contributed to the Veterans involvement in the criminal justice system, and to get their lives back on track. However, the Veterans Court are not a free pass for the Veterans involved in a program. Sometimes the result is diversion and the case is held open until the Veteran completes treatment and other times it is a probationary offer. In those cases where there is a probationary offer, there is a conviction but instead of reporting to a probation officer, the Veterans report to the VA and the Judge at progress hearings. All parties work together to come up with the best plan for each Veteran. Further, for the Veteran to complete the program is normally required to do more than under a normal probation. As an example, instead of reporting to a probation officer once per month, the Veteran may be required to report more often and comply with a treatment plan and the Veteran may be required to report regularly to the judge in open court regarding the Veteran's progress. Accordingly, the Veteran must not only accept the program but be willing to make the additional effort to complete the prescribed program. Thus, the goal is to prevent recidivism and get the Veterans back on the right track.

The effectiveness of Veterans Courts, all be it based on limited results, in reducing recidivism among the Veterans has been successful. This success may in the long run save tax payers substantial funds. It is estimated that anywhere between 62% and 80% of inmates in Pennsylvania prisons are incarcerated for drug related crimes.¹² Each prisoner costs approximately \$97.72 per day or over \$35,000.00 a year to incarcerate.¹³ However, the cost of diverting each Veterans is approximately \$7,000.00 per year.¹⁴ Hence Veterans Courts not only prevent recidivism, provide access to treatment for Veterans and promotes public safety, but save approximately \$25,000.00 per person per year in unnecessary cost. As a result, Veterans Courts,

put the Veteran back on track, prevents future crimes within the community and saves the taxpayers money. In short the Veterans Courts programs are a win/win for all concerned.

In closing, the Pennsylvania Bar Association thanks the Committee for the opportunity to testify and submit this testimony. Should you have any questions, please do not hesitate to contact the PBA at 800-932-0311.

¹ Pennsylvania Bar Association, Corrections Systems Committee, resolution dated April 7, 2008.

² An Achievable Vision: Report of The Department of Defense Task Force on Mental Health, June 2007.

³ U.S. Department of Veterans Affairs.

⁴ Iran and Afghanistan Veterans of America.

⁵ RAND Ctr. for Military and Policy Research.

⁶ Substance Abuse and Mental Health Services Administration.

⁷ The United States Department of Veterans Affairs, www.va.gov/assetmanagement/missionhomeless

⁸ National Association of Drug Court Professionals, www.nadcp.org.

⁹ U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistic Special Report, Veterans In Prison or Jail dated January, 2000 and revised September 29, 2000.

¹⁰ The States include Alabama, Alaska, Arizona, Arkansas, California, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Louisiana, Michigan, Minnesota, Missouri, Montana, Nevada, New York, Ohio, Oklahoma, Oregon, Pennsylvania, Texas, Utah, Virginia (Federal), Washington and Wisconsin. www.nadct.org.

¹¹ www.courts.phila.gov/veteranscourt/mentorprogram

¹² Long Prison Terms Carry Huge Costs for Pennsylvania, The Morning Call, August 12, 2010.

¹³ Report on Long Prison Terms Cost Taxpayers, www.philly.com March 3, 2009.

¹⁴ National Association of Drug Court Professionals, www.nadct.org.