The Emergence of Veteran Courts: A Case Study of Delaware’s Veteran Treatment Court

by

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ABSTRACT

The goal of this exploratory research is to critically analyze the origins and purpose of veteran’s courts, including a newly established veteran’s court in Delaware. This includes how members of the Diversionary Veterans Treatment Court of Delaware work together to provide services to veterans.

Specialized veteran courts are relatively new to the criminal justice system and aim to serve veterans with a variety of legal matters. They are unique because they combine the efforts of a judge, prosecutor, defense attorney, Department of Veteran Affairs members, probation officers, and mentoring specialists to establish a treatment plan that will best benefit the veteran. This study will focus on why the veteran treatment court was created in Delaware and the challenges that confronted its creation. Additionally, the study will seek to gain understanding on how this court differs from other specialized courts and the operational practices involved in the courts functioning.
Chapter 1

INTRODUCTION & LITERATURE REVIEW

Veterans share a common bond with one another, forged by the battles they fight and experiences they share. (Sullivan, 2010) When military veterans return to society after war, some face the difficult task of shouldering the psychological and sometimes physical effects associated with combat while also trying to conform to societal norms. This struggle entails the difficulties of transitioning while simultaneously experiencing feelings of isolation and insecurity. (Paulson & Krippner, 2007, p. 88) Dating as far back as the Civil War, servicemen and women have consistently been judged by society due to the tragedies resulting from their service. Labels such as “soldiers’ heart”, “shell shock”, “battle fatigue” and the most recent “PTSD” are examples of the stigmatization that is associated with mental illness resulting from combat. (Duggan, 2009, p. 139) Due to injuries sustained during combat, whether physical or psychological, veterans are significantly more at risk to encounter the criminal justice system. In fact, according to a report published by the Bureau of Justice Statistics, in 2004, veterans comprised 10% of the total state prison population. (Mumola, Noonan, p. 1) Additionally, more than 2 million members of the military have deployed to either Iraq or Afghanistan since 2001. (Tan, 2009) With such a large influx of veterans returning to civilian society it becomes crucial that we critically examine the programs available to adequately treat veterans and help ameliorate the number of veterans in prison and the justice system. Before explaining
the research study, I will provide background on how specialized courts evolved and how the veteran court came to fruition. I will then turn my attention to the veteran court model and how it attempts to treat justice involved veterans suffering from PTSD and other mental illnesses.
Background

Although problem-solving courts, such as drug courts, have increased in jurisdictions nationwide, (NADCP, 2013) the establishment of veteran courts date only to 2008. Veteran courts are part of a broader movement in the legal system known as therapeutic justice. According to Carn, Hotchkin & Andrews, “Therapeutic justice emphasizes the need to address the root causes of a specific offender’s criminality, to treat the offender to remove the problems and to return the offender to the community as a responsible citizen.” (2002, p. 5) Therapeutic justice is frequently referenced in problem-solving courts around the nation. According to one scholar, problem-solving courts utilize two concepts in their creation and function. Baum says, “The first is a focus on treatment of the problems of the individual defendant….The second is a relaxation of adversariness and an increase in cooperation among court participants.” (2011, p. 114-115) Problem-solving courts vary considerably in the types of cases that are heard. Included are drug courts, prostitution courts, mental health courts and many more. Boldt argues

The proliferation of problem-solving courts has been driven by the claimed successes of drug treatment courts, by a pragmatic sense on the part of judges and other advocates that courts must offer practical solutions to the myriad social pathologies that have found their way into the criminal justice system as a consequence of the failure of other institutions of social control, and by the growing influence of therapeutic jurisprudence and restorative justice. (2009, p.27)
This theme of therapeutic justice is appealing to many drug court professionals because of the increased probability of success. According to a report by the Bureau of Justice Assistance,

Research has demonstrated that, if implemented properly, the problem-solving approach can decrease recidivism, reduce crime, improve coordination among justice agencies, enhance services to victims, and increase trust in the justice system. Results like these have led to problem-solving justice being endorsed by national organizations such as the American Bar Association and the Conference of Chief Justices. (2009)

Thus, veteran courts began out of a broader movement of social justice and tailored their methods to meet the needs of veterans.

A primary focus of much socio-legal research has centered on the courtroom workgroup. (e.g. Feeley 1979; Eisenstein and Jacob 1977) Rudes and Portillo explain that much of the literature focuses on the three primary courtroom actors which comprise the workgroup: the judge, prosecutor and defense attorney. (2012, p. 405) As Miller and Johnson highlight, “Perhaps most important to the ongoing success or survival of any problem solving court program is the judge-prosecutor-defender work group.” (2009, p. 173) In traditional courtroom settings judges decide on law and act as a neutral arbiter between the prosecution and defense. (Talesh, 2007) Additionally, attorneys are viewed and behave as “skilled competitors” or “advocates” (Talesh, 2007) Veteran courts adopt certain aspects of this workgroup including the departure from an adversarial courtroom approach. However, the court deviates from the workgroup by incorporating more actors such as case workers from the VA and veteran peer mentors.

Pioneered in Buffalo, veteran courts aim to facilitate the unique challenge of treating veterans who commit crimes and also suffer from serious mental conditions
including substance abuse. (Buffalo Veterans Treatment Court, 2011) According to the official website of the Buffalo Veterans Treatment Court, their mission 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.” (Buffalo Veterans Treatment Court, 2011) Due to the close proximity to a large military base, Buffalo is able to provide a proving ground for this progressive new court. According to Aaron Levin, author of “Special Veterans' Court Focuses on MH Recovery”, Judge Russell, who presides over the Buffalo court, began to recognize the need for a veteran court after seeing a host of veterans return to the drug and mental health courts that were already established. (2008, p. 16-29)

Furthermore, Thomas Berger, Ph.D., chair of the national PTSD/Substance Abuse Committee of the Vietnam Veterans of America asserts, "The court provides a needed opportunity, especially where substance abuse or mental illness is involved, for an early intervention that will make it more likely that the veterans will turn their lives around and become productive citizens." (Levin, 2008, p. 16-29) Coupling mental health treatment and substance abuse services at an early stage sets the problem-solving courts and veteran court in particular, apart from traditional judicial models. Levin further points out two key attributes of the court. First, he discusses how the court ensures that veterans receive vital benefits from the Department of Veteran Affairs (VA) if they are eligible, which will help give them care for mental illnesses. Secondly, the court uses veteran mentors to work as advisors to each veteran-defendant with the goal of rehabilitation coming first and foremost. (Levin, 2008, p. 16-29) Obtaining treatment from the VA is crucial to helping some of these veterans return to normal living.
The Veteran Court Model

The Buffalo court based its model on the ten principles of treatment courts, which is defined by the National Association of Drug Court Professionals. (Russell, 2009) Some of the key components of drug courts include integrating alcohol and other drug treatment services with justice system case processing, using a non-adversarial approach, abstinence is monitored by frequent alcohol and other drug testing, and monitoring and evaluating the measure of achievement of program goals and gauging effectiveness, as well as several more. (Drug Court Standards Committee, 2004) In addition to the key components of drug courts, Judge Russell and his team in Buffalo also implemented some essential elements of mental health courts as defined in a similar report. That report; *Improving Responses to People with Mental Illnesses: The Essential Elements of a Mental Health Court*, discusses target population, terms of participation, and monitoring requirements in addition to other elements that comprise mental health courts. (Thompson, Osher, & Tomasini-Joshi, 2007) The veteran court model is further adapted to serve the need of the specialized veteran population by forming a coalition of organizations that aim to treat veterans such as the Department of Veteran Affairs. (Russell, 2009)

After implementing elements drawn from both drug and mental health courts, some veteran courts including Buffalo, New York use evidence-based practices to treat offenders. Once participants are identified and agree to the terms of the court, they are admitted and begin treatment. Judge Russell explains,
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. (Russell, 2009)

The court in Buffalo provides the model with which many courts nationwide are adopting, including Delaware.

In the past, many veterans were unaware of how to obtain treatment from the VA, or were unwilling to wade through the numerous obstacles in order to get care. As one scholar explains, “There are not enough professionals to properly serve the needs of veterans, whether it is for mental or physical illness. Because of the lack of professionals, veterans seeking help for PTSD have to wait up to eight weeks for an appointment.” (McGrane, 2011, p. 193) Hence, working with veteran defendants within a court can help to ensure they receive treatment for a variety of conditions in a timely manner. Furthermore, it accentuates the potential impact for more such courts in the United States.

This literature review and subsequent analysis of the data collected from the veteran court in Delaware examine how the criminal justice system is responding to veteran offenders. Looking at contemporary issues surrounding PTSD and mental illness I attempt to understand how veteran courts work with defendants to address these needs through tailored treatment plans. Although the veteran courts are relatively new, I also delve into concerns raised about the court and how they impact future policy as they courts move forward.
Post-Traumatic Stress Disorder & Mental Health Needs of Veterans

To gain a more thorough appreciation for the need of veteran courts, and because post-traumatic stress disorder (PTSD) is a contributing factor to the criminality of veterans, it is imperative that the research examine the role of PTSD in the court. According to the Diagnostic and Statistical Manual of Mental Disorders Fourth Edition Text Revision (DSM IV TR), PTSD is defined as, “the development of characteristic symptoms following exposure to an extreme traumatic stressor involving direct personal experience of an event that involves actual or threatened death or serious injury, or other threat to one’s physical integrity.” (2000, 463) The definition also includes witnessing of events listed above and symptoms can include but are not limited to anxiety or increased arousal, nightmares and difficulty sleeping, irritability and outbursts of anger. (2000, 463-464) Understanding PTSD is crucial because veterans who are suffering from it and are now civilians must learn to cope with wartime trauma while maintaining socially acceptable standards. Daryl Paulson and Stanley Krippner, authors of Haunted by Combat, examine the residual effects of PTSD. They argue that effects of traumatic events have substantial bearing on the behaviors displayed of a person. (2007, 3) This conduct can manifest through a multitude of different behaviors including substance abuse, and other criminal activities. Self-medicating and avoiding treatment can further exacerbate problems a veteran may be experiencing, which helps to explain the high rate of incarcerated veterans. Further, as Noonan and Mumola report,
Half of State prisoners reported ever having a mental health problem, regardless of veteran status. However, veterans (30%) were more likely than nonveterans (24%) to report a recent history of mental health services, including an overnight stay in a hospital, use of a prescribed medication, or treatment by a mental health professional. (2004, p.1)

These statistics correlate with the civilian population of veterans. According to the National Center for PTSD, which published its findings on the Department of Veterans Affairs web site, roughly 11-20% of Iraq and Afghanistan veterans experience PTSD as well as 10% from the Gulf War and 30% from Vietnam. Additionally, according to preliminary findings in a study by the Institute of Medicine of the National Academies,

Given that combat exposure has been associated with higher rates of arrests and convictions in past conflicts, it is possible that combat exposure in OEF [Operation Enduring Freedom] and OIF [Operation Iraqi Freedom] will also be associated with higher rates of incarceration among service members and veterans. (Committee on the Initial Assessment of Readjustment Needs of Military Personnel, Veterans, and Their Families, 2010, p. 84)

Based on the evidence of the prevalence of mental disorders amongst veterans, we can better understand why justice insiders prefer veteran courts as a means to facilitate treatment. Baum says, “Along with homeless courts, veterans’ courts are the version of problem-solving courts that gives the greatest weight to helping offenders. (2011, p. 126) Treatment coupled with a strict regimen designed to rehabilitate can help a veteran better behave in civilian life.

Although PTSD is classified as a mental disorder in the DSM-IV TR, and data heavily points to its presence in veterans, there are those who argue that PTSD does not exist. Robert N. McIay, M.D, Ph.D. author of At War with PTSD: battling post traumatic stress disorder with virtual reality, discusses how 80% of patients who meet the criteria for PTSD diagnosis experience symptoms that are also consistent with
other mental conditions such as general anxiety disorder or depression. (2012, p.63)¹ People will react differently to traumatic events, with some being able to cope and others experiencing debilitating emotions. However, based on the treatments used for patients suffering from PTSD, it is evident that trauma is the cause of these behaviors and can be treated to help the patient return to a functioning and healthy lifestyle. Still, McLay further maintains his reasoning for believing that PTSD does exist. He argues, “If trauma had nothing to do with the symptoms, then confronting trauma would not help a person to overcome her problems. But it does.” (2012, p. 68) Thus, for the purposes of this research and understanding the need for veteran courts, PTSD will be addressed as a mental disorder due to the evidence provided by the DSM-IV TR and the additional professional opinions of mental health experts. This approach is further supported by the veteran courts own practice of recognizing PTSD.

Because of the unique treatment that veterans began receiving at the Buffalo Veterans Treatment Court, many other courts have sprung up throughout the country. According to the Justice for Vets website, a non-profit, nonpartisan organization dedicated to helping veterans in the criminal justice system gain access to specialized courts, there are currently 104 operating veteran treatment courts in the country. (2013) While the initiative to create these courts has exploded, and are generally

¹ While McLay is a believer in PTSD, his conversations and experience as a psychiatrist working with marines serving in Iraq have shown that many service members base their opinions regarding the existence of PTSD on personal experience or from learning about issues from a trustworthy person. (2012, p.66) In other words, based on the statistics of veterans with the disorder (10%-30%), 70%-90% of veterans don’t suffer from the disease, but may have experienced identical situations. Because the majority of people don’t develop issues resulting from a traumatic event, the question of its existence is raised.
accepted by most, there are still those who oppose their creation and purpose. For example, in Texas, opposition to the creation of veteran court includes the concerns of District Attorney Susan Reed who feels treatment should only be prescribed after conviction and sentencing. (Cervantes, 2010, n.p.) In other words, veterans shouldn’t receive a “get out of jail free card” and need to be held accountable for their actions. In contrast, Texas State Senator Leticia Van de Putte disputed Reeds’ stance and argues that veterans in a veteran court will not be avoiding legal sanctions but rather will be receiving treatment and will be subjected to drug screenings and court supervision concurrently. (Cervantes, 2010, n.p.) Additionally, supporters claim that diverting veteran defendants from prison and jail sentences will be more cost effective. (Cervantes, 2010, n.p.) Clearly, evaluative research is needed. How much money these courts will save is yet to be uncovered because there is a dearth of information regarding veteran courts and their cost analysis. However, one scholar emphasizes the financial similarities of veteran courts and drug courts. She highlights how a study of the New York drug treatment court saved the state $254 million dollars by permitting 18,000 drug offenders to enter into drug treatment courts instead of incarceration. (Walls, 2011, p. 720) With America facing tough economic challenges, the opportunity to reduce costs in the criminal justice system by diverting people from prison is a welcome prospect. Furthermore, providing alternatives to incarceration and allowing offenders to maintain gainful employment will contribute to the economy.

By creating a veteran court, the criminal justice system may be affording more opportunity to veterans, but concerns about this potential for favoritism is arguably outweighed by the social benefits of channeling them into effective treatment. Another way to look at it is that veterans are afforded medical benefits from the VA for service
related conditions, whereas civilians are not due to their non-veteran status, however, civilians are still afforded the opportunity to healthcare. The same can be said for the courts, while civilians are not admitted to veteran court, they are still eligible for other state funded opportunities at rehabilitation.
Critical Concerns about Specialized Courts

Specialized courts take many different forms and allow for the treatment of myriad of offenders, however, the literature includes criticisms. Scholars highlight coercion, advocacy, and structure (Mackinem & Higgins, 2009, p.43) as areas of concern for these courts as they continue to gain popularity in the justice system.

In traditional courtrooms, judges act as deciders of the law and ensure procedural fairness (Talesh, 2007) however, within the confines of specialized courts their role is severely expanded. For instance, Leon says,

In the adversarial system, judges are not expected to know everything, since the opposing parties present them with facts and arguments, as well as precedents. But while this adversarial model is expected to give the parties the best outcomes possible because of the back-and-forth informational process, the problem court model erodes this in favor of information and assessments provided by para-professionals. (2007, p. 20)

As they step outside their realm of expertise judges may become vulnerable to "naive abuses of power" (Mackinem & Higgins, 2009, p.43) because their training is limited. In other words, since judges are trained in the law, attempting to decide on the best course of mental health or drug treatment could have unintended consequences. McCoy supports this by saying, "Treating mental illness requires specialized professional skills in which judges are not trained." (2003, p. 11) Further, not all judges are as committed to the specialized court model and may not give the same attention and care to defendants as another judge may. Baum argues that of the estimated 4,000 judges in drug courts in 2007, "it seems highly unlikely that all those
judges have been committed to the vision of drug-court proponents." (2011, p. 121) Baum also discusses that specialized courts are particularly attractive to judges because of the potential impact they can have. According to Baum, "Considerations that range from job satisfaction to crime control to saving money have all helped spur interest in the problem-solving model." (2011, p. 116) Although it is understandable why a judge would be in favor of presiding over a specialized court, questions remain regarding inadequate training and questionable enthusiasm for adopting progressive models.

The goal of veteran courts is to rehabilitate defendants so they can integrate with society as productive members. Defendants entering into specialized courts often do so with the understanding that successful completion of the program will result in some sort of amelioration of their offense. However, as Higgins and Mackinem point out, such isn't always the case. Contrasting "just desserts" as the guiding punishment philosophy in traditional court and therapeutic jurisprudence as the philosophy in specialized courts, they argue, "Therapeutic jurisprudence could lead to punishment that exceeds what offenders would receive in traditional court." (2009, p. 43) This is concerning because it seems contrary to the expressed goals of these courts. The harsher sanctions that are handed down to unsuccessful defendants of specialized courts are often a bi-product of coercion. According to Tiger, drug courts require a guilty plea in order to gain admission. (2013, p. 147) She continues, "Once they've entered this guilty plea, they will have a prison sentence for a felony drug conviction if they fail at drug court, and yet this plea is the only way to get into most courts." (2013, p.147) The coercion and harsher sanctions aren't exclusive to drug courts though and are common throughout specialized courts. Corey Shdaimah highlights her concerns
revolving around the potential dangers of prostitution courts. She says, "Defendants who are implicitly coerced by a lack of alternatives cannot be seen as freely consenting to participate. Even if defendants are not required to plead guilty to access court-based services, it is concerning that, in some instances, they might be worse off after agreeing to participate than they would have been had they abstained." (2010, p.97) Further, in studying DWI courts, Hanson highlights, "There is evidence that mandated AA [Alcoholics Anonymous] participation does not reduce DWI recidivism, and there is research evidence that 'forced AA attendance may be worse than no treatment.'" (2009, p.81) Whether it’s a drug court or prostitution court, specialized treatment courts pressure defendants into admission which can result in more severe sanctions for failure than if they went through traditional court.
Hyper-Masculinity in the Military

In addition to understanding the background of the courts, the role of PTSD, and potential concerns, it is essential that I discuss the hyper-masculine culture of the military in order to better understand why stigma exists and why it creates barriers to treatment. Veterans are unique to civilian offenders because the training they endure creates a culture of hyper masculinity in addition to exposing them to traumatic situations. Holyfield says,

The masculine military culture that presides over all branches of the military continues to perpetuate an essentialism that renders the perceived feminine (homosexual and female) “other” against a backdrop of institutionally sanctioned heterosexual manhood. (2011, p. 104)

Furthermore, veterans are expected to be able to carry the burden of coping with combat related trauma in stride, and any hindrance can result in feelings of inferiority and weakness. Caplan captures the intensity of the hyper masculine environment of the military. She says,

Anxiety can also result from the concerns women and men may have about living up to the military’s extremely masculine standards. For men, the anxiety can come from feeling they are not manly enough. For women, the anxiety is often more complex, because striving to act in traditionally masculine ways in order to prove they deserve to be in the military can conflict with any wish they have to act in traditionally feminine ways. Thus, women may be anxious about being both insufficiently masculine and overly masculine. (2011, p. 43)

Being subjected to wartime trauma can lead to many different responses from veterans. However, a common theme is that this trauma must be dealt with in a
masculine way. Holyfield continues discussing stigma associated by traumatic events by saying, “It turns on all soldiers who are emotionally wounded by war, devalues felt emotions, and simultaneously marginalizes the feminine.” (2011, p. 105) This misinterpretation of gender roles and a “be tough” attitude may be a crucial element needed to create the perfect storm that generates a troubled veteran.
Stigmatizing Military Veterans

The importance and value of specialized veteran courts are yet to be seen, given they are still in their infancy. However, it is evident through the tactics they employ that veteran courts show concern for the stigma associated with mental illness and the difficulties this presents to treating military veterans. Duggan says, “While anecdotal evidence suggests that the stigma has hardly disappeared from contemporary military culture, today’s environment is much more conducive to military people seeking help than it has been in previous wars.” (2009, p. 139) As a result of this recognition of military related mental illness, one task of specialized courts is to diagnose and treat veteran offenders for a myriad of issues, including PTSD. To establish a more thorough understanding of the veteran experience and the unique nature of their “illnesses”, it is imperative that I examine literature that discusses the stigma associated with mental illness in the military and how this creates a barrier to treatment. This is critical to understanding the function of the court and will also help to facilitate discussion in regards to how veterans should be treated prior to entering the justice system.

The stress of long deployments and the trauma some veterans experience is unlike anything outside of war. Barry Schaller accurately captures why combat trauma is vastly different from trauma experienced by civilians.

Combat trauma is unique, however. Trauma resulting from a catastrophic event, such as an accident, a crime, or a natural disaster, may shatter a person’s complacency, confidence, and security, but it rarely calls into question the essence of a person’s identity. Combat
trauma challenges personal identity because of the alien context in which it occurs and because the measures that must be taken to survive as well as to carry out orders may be contrary to or even the antithesis of the moral and ethical standards that govern life outside military service for the soldier. (2012, p. 7)

Although Schaller’s argument identifying combat trauma as unique because it makes someone question his or her identity, so too should we recognize sexual assault and traumatic sexual events as something that can bring identity into question. Sexual assault is pervasive in the military, known as Military Sexual Trauma (MST), and can lead to an increased risk of being diagnosed with other disorders such as PTSD. In fact, an article in the American Journal of Public Health identified 15.1% of women and 0.7% of men deployed to Iraq or Afghanistan as having experienced sexual assault. (Kimerling, et al, 2010, p. 1409) It is also worrisome to note that these rates may not be representative due to fear service members have of reporting incidents of MST. Baltrushes and Karnik explain, “While the rate at which MST is reported has increased over the past 30 years, many reasons for not reporting it--stigma, fear of blame, accusations of homosexuality or promiscuity, and the threat of charges of fraternization among them--still remain.” (2013, p. 121)

As a result of both combat and sexual trauma, many veterans feel isolated and do not seek treatment for their condition. Some veterans have concrete social networks and can adequately cope with haunting memories, others cannot. In his book Psychological and Psychosocial Consequences of Combat and Deployment, David Marlowe references studies on Civil War soldiers and their response to post combat life. He cites Linderman by saying, “because of the overall patterns of American culture, veterans retreat into silence and do not allow themselves to contemplate their physical and psychological wounds.”(2001, p. 21) Paying little attention to the conditions that surround themselves, veterans can find they are facing criminal
sanctions as the manifestation of their wartime trauma. When this happens, the label of “mentally ill” is freely tossed around. This is to say that time spent on deployment, or just military experience in general, carries the connotation that an individual may suffer from PTSD or other clinically recognized mental disorders.

Despite the many issues that surround veterans, including the introduction of the veteran court in 2008, limited research has been conducted to further understand their impact on the justice system and the veteran community. As they seemingly emerge with great hope, it is crucial that an exploratory study be conducted to understand why these courts are continuing to erupt on the justice scene.
Chapter 2

METHODS

Given the context of high incarceration rates amongst veterans, prevalence of PTSD and other mental disorders, and a surge in the justice system towards problem-solving courts, I set out to better understand the purpose of these infant courts. The present exploratory study seeks to more thoroughly understand the emergence of veteran courts throughout the state of Delaware. Although veteran courts are similar in nature to mental health courts and drug courts, there is a dearth of literature surrounding veteran courts. It’s my intention to use this preliminary study to provide a launching point for future inquiry into veteran courts. The research questions under investigation are:

1. Why was the Veteran Treatment Court created in Delaware?
   a. What kinds of challenges confronted the creation of veteran courts in Delaware?
   b. How were these challenges overcome both in terms of state politics and in Delaware’s preexisting judicial order?

2. How is the current court organized in Delaware and how does it differ from other courts in the state, especially other problem-solving based courts (e.g., drug courts, mental health courts, etc.)

3. Operationally how does Delaware’s veteran court work in practice?
   a. What legal and social service organizations are involved?
b. How do they operate in practice (e.g., selection of veterans, service provision, and case processing)

Due to the unique nature of these courts, and in order to fully explore the rich intricacies of them, a qualitative study is employed. I adopted constructivism as the theory which guides further methods. Constructivism is defined by Lincoln and Guba as:

Constructivist inquiry uses an interactive research process, in which a researcher begins an evaluation in some social setting by identifying the different interest groups in that setting. The researcher goes on to learn what each group thinks, and then gradually tries to develop a shared perspective on the problem being evaluated. (As cited in Bachman, 2012, p. 71)

For this research, the social setting analyzed is the specialized veteran treatment court of Delaware, which includes various interest groups. Involved are the Delaware Department of Justice, Department of Veteran Affairs, a compilation of veteran organizations, Delaware Department of Corrections: Probation and Parole, and the Treatment Access Center. The goal of constructivist inquiry in this setting is to understand how the involved groups perceive the court, its goals, and its function. This allows for analysis of these perceptions in contrast with my observations as a researcher. Within the context of constructivism I further employed two methods, participant observation and semi-structured interviews of key members of the court.

During this study, the Delaware Veteran Court, which began in Dover at the Kent County Superior Court, has expanded to New Castle County and now has two

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2 Although veteran defendants involved with the court are a key interest group, none were interviewed, see below; see also Feeley 1979 for court case study methodology.
functioning veteran courts in the state. Data collection began in August 2012 and continued through February 2013.

I also employed a case study method. According to Berg, “Case study methods involve systematically gathering enough information about a particular person, social setting, event, or group to permit the researcher to effectively understand how it operates or functions.” (2001, p. 225) Studying the Delaware Veteran Treatment Court as a case study is beneficial due to both its location and its size. The Department of Veteran Affairs reported in 2010 that Delaware has 79,166 military veterans (and is also the location of a major military installation, Dover Air Force Base). Due its small geographic location and large number of military veterans, Delaware can be viewed and understood as a microcosm to the nation. In other words, understanding how the court functions at a smaller level will reveal how it may unfold in larger arenas.

Between August 2012 and February 2013, I observed 3 different courtroom proceedings. Each hearing was roughly 1 ½ hours long. These proceedings were all status hearings in which veteran offenders were given an opportunity to provide an update as to their progress in different treatment avenues regarding their offense. In order to provide a “thick description” (Geertz, 1973, p.89), I took copious notes describing attitudes in the courtroom, interaction of the courtroom workgroup, and involvement of various treatment organizations including the Department of Veteran Affairs and the state funded Treatment Access Center (TASC). Additionally, I had the unique opportunity to observe a luncheon between the courtroom workgroup and a United States Senator from Delaware, where issues revolving around the court were discussed.
Furthermore, I conducted short semi-structured interviews of key members directly involved in the specialized veteran treatment court of Delaware. This is also known as intensive interviewing, and as Bachman explains, “The goal is to develop a comprehensive picture of the interviewees’ background, attitudes, and actions, in their own terms.” (2012, p. 211) I interviewed 11 courtroom professionals, including the presiding judges of the two veteran courts in Delaware, a Deputy Attorney General, employees from the Department of Veteran Affairs, probation officers, members of TASC, and veteran mentor coordinators.³ Participants were selected based on at least one of the following criteria: (1) a participant must be directly involved in the daily functionality of the court as staff (no clients were interviewed) (2) was involved in the creation of the court.

Interviews were structured with the intention of explicating the different roles the courtroom actors played in the functioning of the court. They ranged in time due to the varying responsibilities of each person, averaging about 20 minutes each. Some interviews were conducted face to face and others took place via phone conversation.⁴ Each interview had roughly the same structure, which would begin by me asking participants about their involvement in the court and to elaborate on their roles. The research questions were used as a guide to assist in conducting the interviews. I began each interview by providing background information about myself and the research in

³ Although public defenders and defense attorneys are involved with the court, I was unable to interview any. While this is a limitation, it should be noted that the defense role is relatively minimal since the court adheres to a collaborative approach, departing from traditional adversarial models.

⁴ Interviews conducted by phone were done so due to scheduling or travel conflicts. 6 interviews were conducted in person, 5 via phone conversation.
addition to having participants complete an informed consent waiver\(^5\). Most interviews began with probing questions regarding how each member became affiliated with the court and expanding on their role within the court. My field notes include tone of voice of the participant, involvement in the court, veteran status, and any other relevant information. Also included in my field notes are descriptions regarding body language and the environment in which the interview was conducted, when applicable. The semi-structured outline of the interviews allowed participants to fully expand on aspects they felt are important about the court and also areas with which they feel the court could improve.

Some participants responded with lengthy conversational descriptions of their roles while others were short and to the point. It should be noted that although this sample size \(n=11\) is small, similarly so is the court. The eleven participants represent the founding professionals involved in the formation and function of the court, and include the range of interest groups. While there were three more interviews I would have liked to conduct, the existing sample covers most of the potential universe. No veterans were interviewed because they had no direct influence on the creation of the court nor are they directly involved in the court's functionality, although future research should include their perspectives.

As a former Marine and current military veteran I recognize that I began with a potential bias in favor of the creation of these courts. In order to minimize bias, I approached each interview and court hearing with an open mind and allowed the research to speak for itself. Paying careful attention to my observations and findings, I

\(^5\) The research protocols, including informed consent forms, were approved by the University of Delaware Institutional Review Board.
have allowed the research to shape my views regarding the creation of veteran courts. In some of my earlier interviews, I decided to inform participants of my own veteran status. I believe this created an atmosphere in which participants were more willing to speak with me about the court due to a mutual understanding of the difficulties many veterans face. However, I made the decision to refrain from disclosing this personal information in later interviews because I recognized the potential for skewed data.

I conducted 11 interviews, 7 of which were recorded and transcribed. Due to restrictions on recording devices in Delaware Superior Courthouses and a technical difficulty, I was unable to record 4 interviews. However, I took extensive notes during those interviews. During the analysis of this research, I have consistently reread the transcriptions and field notes. Additionally, working with another undergraduate researcher, I was able to compare ideas regarding the field notes and how they could be interpreted. In addition to discussing my findings and preliminary analysis with my faculty advisor during the research process, utilizing a second reader aided in recognizing and minimizing my biases towards the data and results. While I began this research with the three questions described above, the iterative process of data collection, analysis and reflection led me to add an additional component: 4) What are the potential problems or limitations evident in the Delaware Veteran court?
Chapter 3

ANALYSIS

Emergence and Purpose for Delaware’s Veteran Treatment Court

In February 2011, the Specialized Veteran Treatment Court of Delaware began hearing cases from throughout the state. Beginning in January 2013, the court has expanded to include a recently established treatment court in New Castle County. (Delaware State Courts: The Official Web Site of the Delaware Judiciary, 2013)

According to their web site,

The program is designed to assist justice-involved veterans with mental health and substance abuse issues to obtain necessary services and reduce recidivism. As a subdivision of the Mental Health Court, the mission of this court is to work with veterans who have been charged with felony or misdemeanor non-violent criminal offense(s) and divert eligible veteran-defendants with substance dependency and/or mental health issues from traditional court processing to a treatment-based problem-solving model court. Veterans are identified through specialized screening and assessments and voluntarily participate in a judicially supervised treatment plan developed by a team comprised of court staff, veteran health care professionals, veteran peer mentors and other health and mental health care professionals. Upon admission to the Veterans Treatment Court, the court staff, health care professionals and mentors assist the veteran with an array of stabilization and other services. (Delaware State Courts: The Official Web Site of the Delaware Judiciary, 2013)

In a broad sense the need for veteran courts is supported by evidence suggesting increased prevalence of mental health issues. (Tanielian, Jaycox, Rand Corporation, 2008, p. 3) The preceding literature review focused primarily on learning the need for these courts on a national scale. Locally, evidence regarding the purpose and need for
a veteran court in Delaware is found in data collected during interviews. The Veteran Justice Outreach specialist discussed how the court began to take shape,

When I first started as the justice outreach specialist I, my role was to reach out to the criminal justice system. So I reached out to all the jails, all the court administrators, just to explain who I was and um just to offer certain social services and treatment to veterans if they come across and in the jails and in the court systems. One person that responded, many people responded, but one of the key players that responded was Judge [removed], she was a, she’s a mental health judge here in Delaware and she said you know umm there’s been conversation going on about starting a veteran court, you need to contact Judge [removed], so she’s the one that kind of gave me Judge [removed] name. I contacted Judge [removed] and we all met, had a meeting and discussed starting a veteran court. So that’s how it started.

Additionally, both presiding veteran court judges in Delaware emphasized the lack of resources to treat issues such as PTSD and homelessness. One judge spoke to the need for the court due to the number of veterans that have been processed through traditional mental health court. This notion of veterans being sent through mental health court was also noted by the Veteran Court Case Manager, who also serves managing cases in mental health court. Neither judge spoke to the efficacy of mental health court but one suggested that the Delaware judicial system has, for years, been in need of adjustment to treat specific issues. Further as a VA employment specialist noted when asked about the need for a veteran court,

I think it’s a good thing because some of the veterans, especially the newer ones getting out, they’re having trouble with getting back into the normal society, and when you come from a war zone you know where you’re being shot at every day or you’re always looking over your shoulder and you find that a lot of them are still doing that here. And it’ll get em in trouble in some instances. You know they’ll see somebody looking at em and take it the wrong way and start a fight or whatever, so there is a need for it um I think it has to go hand in hand with the treatment. You know for whether it’s PTSD or ADH or whatever. I think they have to go hand in hand. It’s just like a drug
court it does basically the same thing I mean, it’s strictly for veterans and the nice thing about it is everybody in the court’s a veteran, you know or related to a veteran. So that you know what I mean? They can relate a little bit better than.. you know um. So yea it is needed I think it is needed.

This is perhaps the most important aspect of the stated need for the veteran court in Delaware. Although some veterans were being treated for mental illness through a traditional mental health court, an adjusted hybrid style treatment in veteran court is seemingly tailored to address a wide variety of issues. Due to the lack of treatment resources in mental health court, many recognized that veterans would benefit from their own court. This comment demonstrates acknowledgement of a need for the court as well as a positive reaction to veteran criminality. However, it also represents the disregard of treatment prior to encountering the justice system.
Court Organization & Functionality

It is the purpose of this section to describe how the court operates. Beginning with arrest and referral and ending with either the dismissal of charges/reduced sentence or termination from the court. First, the court operates within the Delaware Superior Court. The court is both a diversionary and probationary court. It is diversionary in the sense that when an offender comes into contact with the justice system, they are “diverted” from the traditional justice system into the veteran court. The legal advantage of this diversion is that offenders will have pending charges dismissed upon successful completion of a treatment program. Perhaps more importantly, offenders are linked to services to help combat mental health issues. The probationary aspect of the court refers to veteran offenders who have already been sentenced through traditionaljudicial methods and are currently serving sentences on probation. Admission into the veteran court will similarly link veterans to treatment services but will also, contingent on successful completion, reduce time on probation.

The court process begins when a veteran is charged with a crime. After the arrest, if an offender is identified as a veteran, he or she may be referred. One prosecutor explained the referral process.

Let’s say somebodies arrested and they determine, there are 50,000 ways it can be determined, somebody finds out that he was a veteran…. Then we say is the case appropriate to go into veteran’s court? And you know we screen it, then we refer it. It’s pretty simple.
If the case is successfully screened and determined appropriate, a veteran offender must sign a petition, waiver and agreement. (See Appendix A). One prosecutor explained the admission screening process.

Interviewer- I’ve got another question kind of on how you decide on what cases to hear, do you look at people that are more first time offenders or are you willing to go after..

Deputy Attorney General- no, no, no, I got to tell you dude and I’m a little bit of a radical, I don’t believe in a lot of bureaucracy and I don’t believe in a lot of rules and if the guy’s completely fucked up we’re not going to take him in, I don’t have any hard and fast rules. You know what I mean if he really physically beat the shit out of somebody, we’re not going to take it. You know if he’s killed somebody, obviously, if he’s a rapist, you know what I mean, obviously use your common sense. But you know I try to be open about it.

After voluntarily agreeing to enter into the court and waiving certain rights, a veteran offender is given a diagnostic evaluation in order to determine which treatment services are needed. During the admissions process, both the benefits of the court (e.g. dismissal of criminal charges) and the risks (e.g. possible incarceration) are outlined for veteran defendants. One mentor coordinator expands on the selection process:

it’s not meant to be a you know an overly “do good” thing, you’re looking for someone who’s made a relatively minor mistake quite often related to drugs or alcohol or poor mental health issues who we think will be successful in going through treatment and completing the program

I should also note that although the court is voluntary, the courtroom workgroup requires that defendants plead guilty in order to gain admission.

Interviewer: Now is that a nolo plea or do they take a guilty plea prior to going into the program?

Veteran Mentor Coordinator: I tend to think it’s going to be a guilty plea. From a prosecutors side of view, generally we’re not crazy about nolo pleas ‘cause its particularly in the diversion courts you’re looking
for not just the legal admission but the uh real personal admission that I’ve got a problem, you know I’ve got a problem with alcohol, drugs or a mental health issue so I would tend to think that we would frown on accepting a nolo plea”

So as we can see the process begins with an arrest and referral that ultimately leads to a veteran defendant pleading guilty in exchange for admission into the court. After this the next process begins. A probation officer explains:

As soon as they’re referred to the court the VJO determines if they’re eligible for VA benefits, most of them are, so if that’s the case they receive all their services through the VA and she coordinates all that, that’s the veteran justice outreach specialist coordinates all those services. If they’re not eligible for benefits through the VA then they are referred to TASC and in that case TASC would coordinate any outpatient substance abuse and mental health services that they would need.

Once a treatment program is put into place the process begins. I observed the formal admittance process during the status hearings. For instance, when a veteran enters the court for the first time he or she is brought before the judge. At this time the judge makes introductions and explains that each member of the courtroom workgroup is somehow affiliated with the military; whether through direct involvement as a member of the armed forces or through familial ties. Then the goal of the court is explained to the veteran defendant including elaborating briefly on the fact that the court is not a traditional court, but rather a problem-solving treatment court. Also explained to the veteran defendant is the process of sanctions should they become necessary. My field notes indicate that the continuum of punishment included a verbal warning to sanction, and ending with termination from the court and possible incarceration.

Administratively a $200 court cost is applied and explained as well as potential payment plans in the event a veteran defendant requires financial planning. The veteran will comply with all the treatment that is recommended and report to the court
during a status hearing once a month. The court will make exceptions for absences as a result of participation in in-patient treatment. The treatment program is designed to treat and rehabilitate offenders in a 6-12 month timeframe. The VJOS explains, “..pretty much their charge is placed on hold until they complete treatment, it’s usually six months to a year depending on how well they’re doing.” If an offender successfully abides by the program the charges pending against them will be dismissed. During their treatment those charges will be held in abeyance.

If a veteran offender has already been sentenced then he or she may be referred to the court as a post-conviction case. Although a veteran offender will still receive vital treatment, the charges will not be dismissed but rather the probation sentence may be reduced. Additionally, veterans are assigned a probation officer who will supervise behavior and compliance with court conditions.

Upon successful completion, both diversionary and probationary offenders will receive a graduation certificate and a coin that signifies their success in the program.
Judges

The judicial officers appointed to preside over the specialized treatment courts of Delaware step outside the bounds of traditional judicial appointments. Rather than acting as fact finders or neutral arbiters as they would in a traditional court setting; in veteran court they perform the functions of a risk manager. (Talesh, 2007) The veteran court judge ultimately determines treatment plans for each case at an individual level and then assigns those plans to defendants. The defendants must adhere to the plans, based on recommendations from the veteran court team, specifically from the veteran justice outreach specialist. Additionally, it is the responsibility of the judge to reprimand defendants and impose sanctions for any behavior that violates the terms of their treatment. In the event that a veteran offender re-offends during their treatment, the judge uses their discretionary power to impose these sanctions. Sanctions can range from a verbal warning to dismissal from the court and a possible period of incarceration. The judge also establishes relationships with the veteran defendants and learns of their rehabilitation during the monthly status hearings. During my observations of the courtroom status hearings, the judge always asked the defendants how they were, initiated rounds of applause when appropriate, ensured offenders were receiving necessary treatment, and seemed invested in the betterment of the veteran offenders. Additionally, whenever a new defendant was brought before the judge, I always observed the judge going to great lengths to explain the purpose and intentions of the court. This paternalistic attitude adopted by the court to not only discipline
offenders but to also have a seemingly genuine care in their well-being, is a departure from traditional methods.

I understood the judicial officers to have their own interests and agendas while in the court. (Portillo et al 2013) For one, judges are often willing to undertake a presiding role in a specialized court in order to better familiarize themselves with contemporary issues. Baum states, “Judges’ self-interest, broadly defined, has also helped to bring about specialization.” (2011, p. 7) In the case of veteran courts, specifically in Delaware, I believe that both presiding judges have significant self interest in promoting veteran offender rehabilitation due to their own status as veterans. Additionally, in one interview a judge cited the purpose of the criminal justice system broadly, but which I interpreted more as their perspective of the court, as wanting to reform people. I thought this was interesting, because it revealed a stance on what the veteran court should be accomplishing. Additional themes which I address in later sections will also be discussed in relation to the particular agendas of the judges I interviewed and observed (see in particular the discussion regarding eligibility for admission to the court).
Prosecutors & Defense Attorneys

The prosecutor plays a crucial role in the veteran court. It is the primary responsibility of the prosecutor to screen cases for admission into the court. During an interview, one prosecutor elaborated on the role they play in the court, "You know everybody that's a part of veterans court tries to refer cases to it and part of my job is to you know set those cases to see if they're proper for the court." This emphasizes the gatekeeping role held by the Attorney General’s office. Although the referral process can occur from a wide variety of avenues in the justice system, only a certain caseload is permitted into the court. Admission into the court is dependent on the type of crime, involvement of a victim, criminal history of the defendant among other things. Additionally, during status hearings it is the prosecutor who calls defendants up to give their report.

This new role that the prosecution adopts is significant because of its departure from traditional models. In the veteran court the prosecutor works to facilitate an offender’s rehabilitation by cooperating with outside agencies and collaboratively working with the defense to ensure the offender’s needs are met. Due to the adoption of this unconventional role, I came to understand the key interest of the prosecution as that of a gatekeeper. In other words, the prosecutor in veteran court is seemingly concerned with ensuring that only cases that won’t cause conflict or trouble be admitted. This includes cases that involve victims who may not agree with the rehabilitative focus or cases which the public would view as more punishment worthy than reform-worthy. Although the prosecutor is concerned with who is admitted to the
court, they are also concerned with rehabilitation. During a luncheon with a United States Senator, I repeatedly noted the prosecutor requesting that the senator bolster the VA in order to afford veterans disability benefits prior to contact with the justice system, but also once justice-involved. This speaks to the rehabilitative attitude and departure from traditional prosecutorial perspectives.

Defense attorneys in the veteran court play a relatively minor role, since a collaborative approach is taken to address offenders’ needs. I was unable to interview any defense attorneys or public defenders; however, my court notes indicated that their presence in the courtroom is generally demonstrated through supplementary program advocacy for the clients. In other words, they seek to ensure that treatment services are being rendered to their client and stay updated on their client’s progress in the court, in many ways echoing oversight also accomplished by the judge and by the other roles described.
Veteran Justice Outreach Specialist

The role of the Veteran Justice Outreach Specialist (VJOS) is considered by some to be the most important role in the court, and also one that differentiates the veteran court from other problem solving courts. The VJOS acts as a liaison between the Department of Veteran Affairs and the justice system. The VJOS explains,

I see myself as a bridge from the VA to the court. Everyone that’s VA eligible, I meet with them, find out, pretty much a screening. I'm a mental health clinician so I can pretty much tell what they need and I link them up to services here (referring to the VA hospital) and then whoever their providers are going to be, I meet with them to find out what their treatment plan is, and how they're doing as far as their treatment goals and then I communicate that back to the court.

The VJOS is a mental health clinician, carrying a master’s degree in social work and a license in clinical counseling that performs intake exams of veteran defendants to determine the type of treatment needed and the ways with which to acquire that treatment.

When observing hearings, I noted that it is the VJOS who primarily stands with defendants and addresses the judge regarding updates to their treatment. In an interview the VJOS elaborated on their role in the court.

I feel like I wear many hats (laughter) counselor, they call me once a week mostly and they tell me good and bad things that are going on. “Hey I got a job” and I feel like you know I’m their cheerleader like yay! And other times I feel like a probation officer, like you say if you don’t get back on track this is what can happen. Try to keep them in line and then other times um I’m a friend, I’m a counselor, let them vent and hear them out. But mostly my role is to not provide direct treatment but to link them up to the treatment providers here, help them
even register...cause a lot of them didn’t even realize they were eligible for VA, so I literally have to help them apply, get them linked up

This speaks to the departure from an adversarial model and bolsters the argument that veteran courts are primarily concerned with the rehabilitation of veteran offenders. The VJOS represents the adoption of outside agencies into the courtroom workgroup. Although the literature emphasizes three primary roles: judge, prosecutor, and defense attorneys; the inclusion of the VJOS highlights the change taking place. This change is seen both in the broader problem solving court movement and more locally in the veteran court movement. Additionally, because the VJOS is employed through the VA, there is a greater understanding of the internal workings of such a large department which helps to ameliorate the time veterans spend waiting for services. Similar to the prosecution, I understand the VJOS’s role as one that promotes rehabilitation through VA services. Therefore, the VJOS’s key interest in veteran courts can be understood as endorsing and wanting to utilize VA services, but also serving as an advocate for veteran offenders. It should be noted that the VJOS works specifically with veteran offenders who are eligible for VA benefits. For those who are not VA eligible, a Treatment Access Case manager (TASC) will assume the responsibility of establishing a treatment plan. TASC employees similarly work with veteran defendants but instead of utilizing resources within the VA they seek state funded treatment from a more limited set of treatment providers. As one TASC employee stated “we don’t treat, we make the referrals to the treatment providers and case management.”

6 Eligibility for VA benefits is generally dependent on the type of discharge a veteran receives. (e.g. Honorable discharge = eligible, Dishonorable discharge = ineligible)
Peer Mentors

Another unique aspect of the veteran court is the implementation of mentors. These mentors are military veterans and their duties include providing support to offenders, listening and advising them on how to be productive and law abiding members of society. Due to the infancy of the court, no literature includes the importance of veteran peer mentors. They too may be considered in the discussion about the courtroom workgroup as they play a crucial role in an offenders’ rehabilitative process. In discussing veteran mentors, one probation officer highlighted the value of their inclusion in the court.

Probation Officer: me individually, I have no personal military experience which can sometimes be difficult to connect with some of the veterans in the court because they are more comfortable talking with somebody who has you know their own personal experience. Now having family and friends served in the military I found that as kind of a starting point to get through to some of them to have them feel comfortable with speaking to me about their experiences and if not going to one of the mentors in the court to do that.

Interviewer: and all of your clients have a veteran mentor within the court?

Probation Officer: they do, yep, once they’re admitted into the court they’re all assigned through the mentor program to an individual mentor and whoever that mentor is just connects with them on a personal basis, they’re not directly involved with the court, they don’t report to the judge or anything like that.

This is an interesting development because the mentors are not required to report anything to the court, but are there to act as a friend to offenders. This is important because the key interest of their role is primarily to help an offender return to a law
abiding status and healthy living, without the additional or potentially conflicting agenda of their institutional affiliation (i.e., as prosecutors may feel the need to balance rehabilitation with the traditional interests they pursue in adversarial models). This is significant because no other courts promote this level of rehabilitation; that is having an individual mentor designated to aiding in the process. These mentors are recruited and managed by veteran mentor coordinators. Each court has a designated mentor who ensures that veteran defendants are linked to a mentor. According to one mentor coordinator in reference to the role of veteran mentors,

you know I think a lot, well first of all it was the program itself, explaining the overall program uh nationally, what different courts are doing and then what the Delaware system would be which is a little bit different, you know each state does it a little bit differently and then it talked about the mentors role, you know you’re not their attorney, uh you’re their friend, you’re there to help them succeed, get to appointments. A lot of it was about what you aren’t as it was what you are, particularly for the lawyers that were in the room, which meant a lot to me because I walked in that morning thinking oh I’m a lawyer, that’s not my real function in this.

Additionally, coordinators screen potential mentors through an application process and are responsible for ensuring they receive training. Mentor coordinators look to engage volunteers from all different backgrounds of the military as well as trying to find enough so they can pair veteran offenders to the mentors based on military conflict and gender. In other words, they do their best to place a Gulf War veteran offender with a Gulf war mentor. Both mentor coordinators in the Delaware system currently reach out to veteran organizations such as the VFW and American Legion to maintain a steady roster of mentors.
Probation Officers

The veteran court in Delaware adheres to a hybrid model, in that they handle cases that are diversionary and post-conviction. As explained above, for offenders who enter into the court prior to a conviction they are considered diversionary cases; for those who have already pled guilty or been convicted and sentenced to a charge are considered post-conviction. The post-conviction offenders are assigned a probation officer. These probation officers work with the court to assist by ensuring that offenders adhere to their treatment plan. As one probation officer said, “my role is any cases that were either brought into the court as part of a violation of probation or were previously sentenced to probation and then brought into the court afterwards, it’s my job to supervise them on whatever level they were sentenced to which is typically level III.”

7 It has been my observation that when an offender violates the terms of their

Probation and Parole - Level II- Level II is the standard Probation/Parole supervision program. Offenders on Level II supervision are to meet with their Probation Officer on a regular schedule to comply with contact requirements based on risks/needs assessments. Level II Probation/parole Officers serve in the Traditional roles of counseling.

Intensive Supervision - Level III -Intensive supervision entails at least the equivalent of one (1) hour of supervision per day and no more than fifty-six (56) hours of supervision per week. The minimum of one (1) hour of supervision per day is achieved through direct offender contact, collateral contact, verification of each offender's activities (e.g., residence, employment, training and school), and performance with court-ordered treatment and Community Service. The emphasis is on supervision through increased community contacts. (State of Delaware: Department of Corrections)
probation while in treatment, the probation officer will report that violation to the
judge, who will administer sanctions accordingly. I understood the key interest of the
probation officer to be promoting adherence to treatment plans and probation
regulations. In other words, their interest in the court is to further the rehabilitative
agenda of the court while also upholding the law by ensuring offenders abide by the
conditions of their probation.
Lastly, I will discuss the roles of the “VA homeless veteran support of employment specialist” and the veteran court case manager. The court case manager works to perform administrative functions and ensures that offenders are properly scheduled in the calendar. The VA homeless veteran support of employment specialist works to secure employment for veterans who are both homeless and involved in the court. They are employed through the Department of Veteran Affairs. When asked about their role:

**VA Employment Specialist:** all’s I do is employment. The way it works basically is I’ll interview them, find out what their skills are, what kind of position they’re looking to get into, help them with the resume, point them in the right direction for where to look, you know refer them to different agencies out in the community for jobs, I do have some employers that I work with, if they’re looking or you know I’ll refer them to them have them put an application in, if I have to I’ll take them to the job interview. I try to get them to do most of the stuff on their own, because I think it instills more pride in getting a job yourself, than somebody giving it to them.

The VA employment specialist also discussed how the type of discharge is dependent on the types of services available.

**Interviewer:** Does type of discharge matter?

**VA Employment Specialist:** yea, a dishonorable discharge then you’re not VA eligible, ok so as long as you’re VA eligible I have to help you. Which I don’t have a problem with. You know what I get is a bit of everything you know some guys are not in the court or they have drug problems alcohol problems, charges ranging from theft to rape you
know. Now those charges like that are not handled in that court but I’ve got some that have those charges

Although this role in the court is relatively minor, it is still crucial in ensuring veterans receive vital benefits that will contribute to their rehabilitation. These VA employees are also able to provide a positive face to the beleaguered VA: they demonstrate successful connections between eligible veterans and the services they need, at a time when the inefficiency of the VA as an institution is well-known. For example, Aaron Glantz reveals that veterans wait an average of 1,419 days for a response to an appeal for denial of disability claims. (2009, p. 115)
Chapter 4

DISCUSSION & CONCLUSION

Veteran courts are continuing to emerge quickly throughout the country, as well as in Delaware. On January 2, 2013 a veteran court in New Castle County opened for business, expanding from the original in Dover. Throughout the research process I’ve uncovered the stated need for veteran courts, how they are organized, as well as how the court functions. It’s important to understand how the court departs from traditional court models, uses a more collaborative approach to addressing offenders needs and by handling a docket exclusively of veterans and using mentors. In these ways it separates itself from other problem-solving courts.

This exploratory research has laid the groundwork for future inquiry. As a mentor coordinator relayed,

From Buffalo on, all these veterans courts that have been created with such promise and hope, um it has to be validated. I mean, does it do what we hope it will do? Not just to you know excuse people, they’re not excused but you know diminish the consequences of criminal conduct but it is hopefully to prevent recidivism by treating what we think are the underlying causes of the original encounter with the criminal justice system. Alcohol, psychological problems, post-traumatic stress disorder and other manifestations and combinations of those root causes. Can you get it so that the individual can cope with the stressors that he or she is gonna experience and not come in contact with the criminal justice system. And that’s why I think the validation process is two, three, maybe five years down the road you know?

I would like to further expand on my analysis by discussing the ways in which this case study, while not representative of courts nationally, has broad implications for
other veteran courts. I will further discuss how veteran courts differ from other problem-solving courts. Additionally, I explore the tremendous amount of camaraderie felt in veteran court which can bolster rehabilitative efforts, but also can have consequences regarding stigma. Finally, I explore in the preliminary evidence pointing to judicial disparity in admissions processes that I found in Delaware.
How Veteran Court Differs From Other Problem-Solving Courts

Throughout this research several themes have emerged regarding how the veteran court differs from other problem solving courts. While the present research provided a case study of veteran court without direct comparison with other problem courts, it is possible to build on the existing problem court literature to suggest important distinguishing characteristics of veteran court. Inductive analysis of interview data and field notes, as well as engagement with the critical literature, supports the following unique aspects of veteran court.

First, and most obvious is that all defendants in the court carry a military veteran status; what is perhaps less obvious is the involvement of veterans in the court who are not defendants. For instance, many of the courtroom workgroup, including both judges, are themselves military veterans. A veteran mentor coordinator explains,

And everybody of course in the system comes from a similar background, including the two judges so that everybody has a very positive attitude about let’s address the situation and let’s fix it and I think that’s one of the reasons why across the country veterans court have such a high success rate…

This is a significant distinguishing feature of Delaware’s veteran court. Consider drug courts: presiding judges and other courtroom actors generally do not have direct personal experience with drug addiction, although they do often cite family or other indirect personal experiences as motivation for involvement. The mutual understanding of military life and the struggles that accompany such a life are viewed positively by the participants as a way to improve service to veteran offenders.
It should be noted that it is possible that the shared acculturation of a military background, in conjunction with the hyper-masculinization described in the literature review, could promote a less forgiving attitude towards veteran offenders who slip up. However, no data from this study establishes such a “tough” view. Future research, and specifically comparisons with the differences in attitudes toward offender slip-ups across problem courts, would be valuable to unpack the prevalence and possible limits of my shared-background-as-positive finding.

This direct experience relates to the next theme of a shared camaraderie and less stigmatization in the court. The VJOS elaborates, “Somehow when veterans get together it’s different than when other groups get together. They encourage each other and there’s not as much stigma attached to it.” In one court observation, a defendant had faltered in their treatment plan and was brought into the court wearing a prison jumpsuit. There was a brief moment where another veteran defendant began crying in reaction to the incarcerated veteran. This breakdown into tears was representative of the camaraderie felt by veteran defendants but also a reminder of what will happen to the defendants in the event that they don’t follow through on their treatment plans. Although the camaraderie felt in the courtroom is significant, it also has its drawbacks. Empirical evidence provides two-fold concern regarding stigmatization. First, attaching a mentally ill label to a veteran, whose “illness” stems from an unnatural and horrifically traumatic set of circumstances can be construed as degrading. Consequently, because the experience is so different, labeling veteran offenders as “mentally ill” due to service related trauma presents a worrisome stigma. Caplan discusses mental illness in the military and the labels it creates. She says,

By far the most common way Americans describe the emotional suffering of war veterans these days is to say they have Posttraumatic
Stress Disorder (PTSD), a label that is listed in the fourth edition of the Diagnostic and Statistical Manual of Mental Disorders, or DSM-IV, sometimes called the psychiatrist’s Bible of diagnoses of mental disorders. But to call the psychological effects of war mental illness is to sanitize the effects of war, to make them seem to constitute clinical entities or diseases, and to set apart those to whom we give clinical labels as different and separate from the rest of us. (2011, p. 2)

This is disconcerting because attaching a label to someone who, for no fault of their own is now faced with an uphill battle is, simply put; unfair. Sanitizing the effects of war is detrimental to veterans and civilians because it masks the truth and discredits the trauma that people face. Caplan continues,

Americans cannot bear to look at the consequences of war, especially wars that their own country has initiated and sends its citizens to fight. One devastating consequence of this turning away is that it leads us to isolate, silence, and pathologize the veterans of those wars. It is human to turn away in horror from death and damage, but for all the exhortations one hears in the United States to “support our troops,” the country is engaged in a massive-though largely unrecognized- cover-up of the true nature of the damage done by our wars to our troops, a cover-up executed in the ways we decide to label, categorize, and treat the vets. (2011, p. 11)

The labeling of veterans as mentally ill, categorization as criminal, and creating treatment plans for them within the justice system reflects the current landscape of America’s response to an alarming number of veterans in need. Although veteran specialized treatment courts are designed to handle cases involving substance abuse, less serious violent crimes, and cases involving mental illness, admission into the court perpetuates the stigma of being a “mentally ill veteran.”

In my observations of the specialized court in Delaware, on almost every occasion where an offender is brought before the judge, there is a brief interaction between the judge and client and then the case is turned over to a reporting entity. In the meantime, the veteran is left to stand and hear a report about him/her given to the
judge. Taking into account courtroom etiquette, it is not uncommon for a defense attorney or probation officer to give an account on behalf of their client; however, these reports are often given in a context which suggests the veteran cannot think on their own. This further exacerbates the label of “mentally ill.” I personally experienced some minimizing effects of the courtroom in one visit. I was heading to meet the judge for an interview in their chambers and was being escorted by a bailiff. I was told to spit out the gum I was chewing. I had intended to, but by telling me to do so, the bailiff manifested ideas about people not being able to think for themselves when in the courtroom. There is the potential that by attaching labels and stigmatizing offenders, there could be significant setbacks in an offender’s recovery, which conflict with the goals of a treatment court.

My other concern rests in the court’s method of beginning treatment for the veteran offenders. For someone who has experienced a traumatic war time event, reliving the experience is often terrible. During an observation, I witnessed an offender who was at their first court appearance. The judge laid out the rules and expectations of the court and asked the offender to discuss which military units he’d been a part of and whether he had deployed. After a minute or so of talking, the defendant broke down in tears recanting some of the horrific situations that were experienced while on a deployment to Iraq. This is disconcerting for two reasons. First, judges, prosecutors, and other courtroom actors are privy to the details of offenders’ lives and crimes. As such, it is easy for them to forget that discussing such details may be traumatic to the offender. This secondary trauma of reliving a nightmare may have profound impacts on someone’s recovery. Secondly, and as discussed earlier, crying in a public setting and around other military veterans can be
interpreted as shameful and weak, which may also hinder an offender’s recovery. A separate incident provides another example: as I noted in field notes from a court observation, a defendant was ordered to undergo a stress reduction group. This order was justified by discussing in open court his medical history, which included nine heart attacks. This disclosure of medical information in public can be construed to be an invasion of privacy and may exacerbate the sense of powerlessness felt by traumatized veterans.

While other specialized courts also attempt to minimize stigma and create a supportive environment, the shared identity of veteran is often considered a wholly positive identity, so it likely has different effects than the feeling of community developed among people who share a “spoiled” identity like drug addict or prostitute. As the courts continue to rapidly emerge, solutions to openly disclosing information in public court and reducing stigma must be addressed. One possible solution would be to have defendants divulge personal information in private to a clinician or case manager. The member of the workgroup who obtains that information can then brief the judge prior to the hearing, which will allow for shared information, a tailored treatment plan, and a veteran being spared this kind of public scrutiny or secondary trauma.
Involvement of Independent Organizations

Another distinguishing feature of the veteran court is the involvement of independent federal organizations such as the VA that offer places in treatment programs. Because funding for treatment for these veteran offenders is no longer the states’ responsibility, program placements are more readily available. A prosecutor cited the VA involvement as a significant difference when asked.

Interviewer: …how would you say it [veteran court] differs from other problem solving courts in the state?

Prosecutor: The participation of the VA is so intense, they’re committed to it, the VA is committed to this and that’s the main reason that it works, their commitment. These guys are actually getting services and it’s not just a bunch of, in other words it’s not just a bunch of B.S. If they need to go to impatient, impatient is there, you know what I mean? And so a lot of our older veterans are getting treatment for the first time. They didn’t get treated after Vietnam, they’re getting treatment now.

As we consider how veteran courts are unique, it is important to note the involvement of the VA. Although the VA is critically involved once an offender is admitted to the court, we should also be concerned about an interesting contradiction. Let me explain: due to the VA’s inefficient system, most veterans outside these special programs are unable to receive treatment. As a result they may self-medicate, continue using substances, or have untreated mental health issues. Due to their inability to cope, they come into contact with the justice system, are arrested, and coerced into surrendering certain rights in order to receive treatment. The catch 22 is that the reality demonstrates that the VA does not adequately treat unless ordered to do so by court-
mandated treatment, and the court cannot function properly without the presence of the VA. In other words, one does not exist without the other. Further, in a court observation, I noted one judge willing to advocate for an offender by offering to “speed” up the process of procuring housing vouchers. The VA’s active participation in the court can be viewed as compensation for its lack of participation prior to the court, although of course only a small subgroup of eligible veterans receives this streamlined access to VA services. The coercive tactics of the court in connecting veterans to much needed services is evidence that those same services are previously unavailable prior to arrest. The struggle involved in procuring treatment and benefits is a contributing factor to the creation of specialized veteran courts, as they aid in getting timely treatment.

I consider mentors to be an outside organization for two reasons. One, they are not affiliated with the court and deal directly with clients. Secondly, they are not required to report anything to the court. This is a major difference from other problem-solving courts. One judge explained that the assignment of mentors is a key difference because it allows a veteran offender to have an outlet to discuss whatever they want without the threat of punitive sanctions. Additionally, mentors are there to encourage and support offenders and aid in their rehabilitation. While mentors may be a key difference that separates veteran courts from other problem-solving courts, they are not without their critics. As a prosecutor discussed.

Deputy Attorney General: ok well Delaware’s a little different and in my opinion it’s a classic Delaware problem. That the mentor thing is not working, however I’m not going to tell you that the court is not a success. And quite frankly I don’t know if we need mentors in all cases, I’m going to tell you straight up. Buffalo just has this sort of unique population up there that is into it, where Delaware does not, despite our advertising. But that does not mean our court does not work. Because
so far I think it’s working. The best part of it is that we have the VA in the courtroom and I know they’re in the courtroom in the other states too but the VA here is working, it works. A lot of people complain about the VA, I have nothing but good things to say about the VA so.

…

This statement raises concerns about conflicting ideals within the court and the courtroom workgroup. He continued,

and um the mentor thing just hasn’t taken off but that does not mean our court is not successful and every veterans court does not need to be the same. The Buffalo people are great, but they go around the country saying you got to do it this way and you don’t have to do it this way, you can do it a different way. In my opinion it does not have to have mentors.

Future research should aim to better understand the mentor relationship within the court, but one possible reason for the delay in its launch is the difficulty recruiting mentors. One mentor coordinator highlighted this concern.

Veteran Mentor Coordinator: And my experience is and I’ve talked to a lot of other people uh who are more familiar with veterans organizations. Vietnam vets were not big joiners except with Vietnam veterans organizations but a lot of them didn’t go into the traditional what you call traditional, VFW, American Legion, type organizations and I don’t know that a lot of the Gulf War veterans are joining at all. And that’s the one vehicle that you always see as a potential route for recruitment. So it’s still a struggle and as I look at the array of mentors that I have and they’re wonderful people and they have great experience I would feel better if they were a little younger.

To summarize, the mentor aspect of the court receives mixed reactions from the workgroup. Some suggest it is an unnecessary entity, while others distinguish it as the key difference and major tool towards reducing recidivism. Whichever stance is taken, it is apparent that the presence of mentors is a key difference from other courts.
Selection for the Court & Coercion

A unique feature of many problem-solving courts is their method for admitting defendants. Veteran courts, as a type of problem-solving court, utilize the disconcerting feature of coercive tactics in order for defendants to receive treatment. This is potentially worrisome for several reasons. First, defendants have to surrender due process rights in order to be admitted to the court, and defense counsel subsequently plays a minor role, without the traditional advocacy they would provide in traditional criminal proceedings. Second, treatment plans differ depending on the defendant and their individual case, which requires the judge to depart from traditional judicial roles and administer tailored plans for each defendant. Traditional adversarial models tell us that the role of an attorney should be as “skilled competitors” and “advocates”. (Talesh, 2007) Additionally, judges are considered to be “fact finders” and “deciders of law”. (Talesh, 2007) Recent research also points to their role in therapeutic justice as “backstage producers” (Portillo et al 2013). As we move into an era where problem-solving courts are increasing in popularity, the positive side can reflect the collaboration of both the internal workings of the court as well as the courts relationship with outside organizations. On the downside, the potential for coercion and severe sanctions are prevalent. This sheds light on the last point, if a defendant does not successfully complete the treatment plan, he or she could potentially face harsher sanctions and suffer more severe consequences than if processed through traditional court. (Shdaimah, 2010)
Due to veteran courts basing their treatment models on mental health and drug courts, the surrendering of due process rights is viewed as a reasonable tradeoff. This is consistent with specialized treatment courts throughout the country. The veteran court is unique because oftentimes defendants are entitled to Department of Veteran Affairs disability benefits. Many have not succeeded in acquiring benefits on their own because of the strenuous process of obtaining them. Thus, the court, in exchange for their plea will connect the defendant to services within the VA that they need. Although this service of providing treatment through the VA is beneficial to most veterans, it illustrates the blatant failure on behalf of the VA to provide services prior to them coming in contact with the criminal justice system. Caplan says,

According to top VA therapists like the wonderfully candid Dr. Patricia Resick, director of the Women’s Health Science Division of the National Center for PTSD and the VA Boston Healthcare System, there were two major, unmet needs: (1) for developing and testing new treatments for substance abuse and other emotional or behavioral problems and (2) for finding ways to put treatments into practice in ways that actually helped servicemembers and veterans. (p. 158)

Furthermore, the court intends to lower recidivism by “curing” veteran offenders of their criminality and returning them to society as productive members. Tiger, author of Judging Addicts: Drug Courts and Coercion in the Justice System, says,

While drug court advocates argue that coerced treatment is more humane than imprisoning addicts or subjecting them to the “revolving door of justice,” they also argue that coerced treatment is better than voluntary treatment precisely because the court can enact the coercion necessary to cure people’s addictions. (2013, p. 108)

As a result, net widening of the justice system occurs because of the failure of the VA to provide services and the coercive nature of the veteran court. This net-widening
occurs because it lengthens the time offenders are under criminal justice supervision and can create harsher sanctions if they don’t successfully complete the program.

My next concern rests with the departure from traditional judicial roles. In veteran courts, the judge is required to tailor treatment plans ranging from substance abuse to domestic violence. In her article *Should Courts Solve Problems? Connecting Theory and Practice*, Leon highlights the role of judges in problem solving courts, in contrast with the traditional role, upon which protections for defendants are built into the process. According to Talesh, in such courts the role of a judge is as a risk manager. (2007) But what qualifies a judge for such a highly specialized position? In veteran courts, there are several professionals including mental health clinicians, treatment access center case managers, and employment specialists who all provide input as to the treatment of an individual but it ultimately is the judge’s discretion as to what plan is enacted. While most judges may be well intentioned, their traditional roles require them to decide on cases involving the law as neutral arbiters. (Leon 2007, p. 9) Thus, the potential for poor decision making in the treatment plan of a defendant is of concern.

In addition to the coercion employed by the court, judicial disparity in the court admissions process is something I found to be prevalent in the Delaware court. In other words, one judge is more lenient in terms of who is allowed into the court. This conflicts with several ideas already within the court and is contrary, in my opinion, to the purpose of the court. For instance, in an interview with one veteran court judge I was told that veterans with dishonorable discharges would not be permitted to participate in the treatment program. This particular judge did not want to
“dilute” the court and thought it would be bad for morale to admit someone who carried such a status.

The issues with this disparity are threefold. First, based solely on geographic location of arrest, a veteran may not receive treatment services through the veteran court. Second, a dishonorable discharge may have stemmed from an untreated military service related illness or injury. Further denying care and treatment does nothing to ameliorate the issues pertaining to veterans in the justice system and exacerbates the stigma of carrying such a discharge. A prosecutor for veteran courts voiced their concern about this in an interview.

Interviewer: …does the type of discharge that a veteran receives depend on whether or not they can…

Deputy Attorney General: that can affect VA, which in my opinion personally is tragic. I mean just ‘cause a guy got a bad discharge, that means we’re not going to treat him? What kind of fucked up process is that? I’m a military guy and I think that’s screwed up.

This highlights differing views amongst the courtroom workgroup which can lead to several issues in the future.

My last concern is the underlying reasoning for denying and accepting admission into the court. If a veteran carries a dishonorable discharge, he or she will be ineligible for VA benefits. This begs the question, is their denial to the court resource-driven or punitive? The presence of the Treatment Access Center (state funded treatment services) in the court provides treatment to veterans not eligible for benefits or services through the VA, but these services are severely limited, especially in the two smaller southern counties. Perhaps a more worrisome concern is that selection may be punitive, and based on personal bias rather than recognized factors for differentiating among deserving offenders. It should be noted that one veteran
court judge is prior military enlisted and the other an officer. Outside this context, data that compares punitive attitudes between enlisted and officers is extremely limited, however, a Harvard study from the 1950’s examined this question. Henry and Borgatta say, “The result confirms a widespread observation within the Air Force that enlisted members of military courts consistently vote for harsher sentence than commissioned members.” (1953, p. 671) While this may not representative of today’s environment, it provides reason for further inquiry into this judicial disparity.

Considering veteran courts in the broader context of specialized courts has allowed for initial answers but has simultaneously opened the floor for future inquiry. The emergence of therapeutic justice and drug courts in the 1980’s paved the way for the establishment of veteran courts. As we move forward, and with the wars overseas concluding, it is imperative that continued analysis be done as to how the justice system and its policies impact veterans. Further, because Delaware is a small geographic location with a significant veteran population, I expected to find some type of consistency between the jurisdictions at the county level. Uncovering inconsistencies in court admissions in such a small state reveals the problems that can unfold and suggests that some type of uniformity must be established for these courts. In other words, because these inconsistencies exist in a small setting, there could be more widespread disparities for larger jurisdictions. Future research includes an in depth analysis of why veterans are offending and potential solutions prior to contact with the justice system. A possible solution could be to bolster the VA to become more efficient at case handling. This would ensure veterans receive benefits in a timely fashion and are treated for underlying issues. Additionally, a longitudinal study should be conducted to measure the value of the courts. In other words, rates of
recidivism are often deemed by problem solving court advocates as the best way to measure courts efficiency. In terms of the veteran court, analysis needs to be done to show how many veterans reoffend and in what time frame they do so. Further developing and understanding the roles of judges in veteran courts will be crucial as well. Military veterans are a special class of citizen based on their experiences. Likewise, the veteran courts are also highly specialized, and it is because of this combination that future research must be done in order to continue to improve the programs in place which are designed to aid this unique population.
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Appendix A

VETERAN’S TREATMENT COURT PETITION, WAIVER AND AGREEMENT

SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

VETERAN’S TREATMENT COURT PETITION, WAIVER AND AGREEMENT

DEFENDANT/PETITIONER:

ADDRESS:

PHONE: DOB: DUC#

1. I voluntarily request entry into the Superior Court Veteran’s Court Program. I understand that, I will have to follow orders and directions given to me by the Superior Court of Delaware Veterans Court Judge and treatment personnel. To that end, I understand and agree to comply with all of the following terms and conditions.

2. If I complete the program successfully, the criminal charges pending against me relating to the stipulated facts herein will be dismissed. Election of this program also requires the waiver of certain important rights as a condition of participation which is listed below.

3. I agree to submit to and complete a diagnostic evaluation and treatment program dealing with my substance abuse problem as ordered by the Court. I understand that the treatment program recommended by the TASC/VA Case Manager could include residential in addition to outpatient treatment. I further authorize release of all treatment information to the Court. Such information will not, however, be utilized
by the Attorney General in any subsequent trial, if necessary, on the charges presently before the Court.

4. If I successfully complete the diversion program and fulfill all terms and conditions of this Agreement, prosecution for the offense which is the subject of the stipulated facts will not proceed and the charges against me stemming from those facts will be dismissed. The minimum length of the program is 6 months, lasting up to a year or more if necessary.

If I do not successfully complete the diversion program or comply with the conditions of this Agreement, a failure to Comply Hearing will be scheduled and may result in (1) modification of my treatment program or (2) revocation of my pre-trial release or (3) termination from the program resulting in a trial based only upon the facts stipulated to be accurate for the purposes of these proceedings and the trial. If a trial becomes necessary, the charges and case numbers are:

State agrees to NOLP _______________________ upon successful completion/graduation of this program.

5. By signing this document I acknowledge that I have read and understand that the attached statement of facts is accurate for the purposes of these proceedings and any subsequent trial. I agree that those facts will be the sole basis to be considered in any trial which results from my breach of any of the terms of this Agreement.

6. I further understand by agreeing to the stipulated trial referred to in Paragraph 5, I am surrendering certain rights, including:

(a) my right to a speedy trial;

(b) my right to a jury trial;

(c) my right to call witnesses and cross-examine State witnesses;

(d) my right to testify and present evidence;

(e) my right to raise and legal or factual defenses arising from out State and Federal constitutions, including but not limited to, the right of the police to stop and/or seize me and/or evidence and the legality of any statement obtained by the police;

(f) my right to appeal unless the sentence imposed exceeds the statutory maximum sentence prescribed by law.
7. I understand the minimum general requirements to achieve final disposition in the Superior Court of Delaware Veterans Court Program are:

(a) Participation and compliance with my treatment program.

(b) Remaining drug and alcohol free (excluding prescribed medications) during my participation in the Superior Court of Delaware Veterans Court Program.

(c) Remain medication compliant

(d) Meet with Veterans Court Mentor as directed by the Superior Court of Delaware Veterans Court Judge.

8. I understand that if I violate any of the terms and conditions of this contract, the Superior Court of Delaware Veterans Court Judge, at his or her discretion, may impose sanctions. Violations include, but are not limited to: missed appointments, missed court appearances, positive tests for illegal drugs or alcohol, new arrest, failure to work diligently toward the goals of the program, or failure to follow the instructions of the Judge or treatment personnel.

9. I also agree:

(a) not to violate any law (federal, state or local) and to immediately contact the treatment counselor if arrested;

(b) to attend school or work regularly at a lawful occupation or be otherwise engaged productively as approved by the Court;

(c) to continue to reside at the address supplied to the Court and provide and to notify both if I change my address;

(d) to report to the program to which I am referred, as required, cooperate fully, and abide by all of the program’s conditions

(e) to appear in Court for status conferences or termination hearings as required;

(f) that the Court may extend my treatment as the Court determines appropriate to allow successful completion of the requirements;

(g) to pay a civil drug education fund assessment to the Clerk of the Superior Court in the amount of $200.00 Court Cost, unless deemed suspended by the Court. I may also be charged a fee by the private treatment provider, based on a sliding
scale which will take into account my income and dependents. The exact details of this fee will be explained to me by the treatment provider personnel.

(h) I understand that participation in the Superior Court of Delaware Veterans Court Program is voluntary. If I wish to withdraw from the program, I must ask my lawyer to schedule a hearing before the Judge. I understand that my withdrawals from the program may result in my case being re-listed for trial.

(i) I understand that I have the right to consult with an attorney with respect to any questions I have concerning my rights and the Superior Court of Delaware Veterans Court Program. I understand that if I am unable to afford an attorney, the Court will appoint one to me.

(j) **to stipulate to the following:** facts contained in the police report, complaint no.__________

   by the defendant above and at the substance was__________________________.

(k) To the following additional requirements: **Defendant/Petitioner agrees not to file for a motion for expungement for three (3) years after successful completion/graduation from this program.**

I have read or my attorney has read to me and I understand this petition and my obligations and the rights I am surrendering. I am knowingly and voluntarily entering into this Agreement understanding that the police report and/or accompanying statement of facts and/or stipulation will form the sole basis of the evidence in any trial that my occur.

DATE:__________________________________________ ________________________________

Defendant                                                                 Bayesian General

__________________________________________  ______________________________________

Defense Attorney

__________________________________________  ______________________________________

Veteran’s Court Judge                                                                   Veterans Administration